

EXHIBIT 10

1 JEFF MCCUTCHEN

2 IN THE UNITED STATES DISTRICT COURT

3 FOR THE NORTHERN DISTRICT OF MISSISSIPPI

4 OXFORD DIVISION

5
6 JOHN RASH,

7
8 Plaintiff,

9 v.

CIVIL ACTION NO.:
3:20-cv-224-NBB-RP

10 LAFAYETTE COUNTY,
11 MISSISSIPPI,

12 Defendant.

13
14
15 VIDEOTAPED REMOTE DEPOSITION OF

16 JEFF MCCUTCHEN

17 Thursday, January 7, 2021

18 9:07 a.m. Central Standard Time

19
20
21
22
23 Reported by:

24 GRETA H. DUCKETT, CCR, RPR, CRR, CVR-S, RVR-M-S

25 JOB NO.: 188328

1	JEFF MCCUTCHEN	Page 2	1	JEFF MCCUTCHEN	Page 3
2			2	A P P E A R A N C E S	
3			3		
4			4	FOR THE PLAINTIFF:	
5			5		
6			6	Jonathan Youngwood, Esq.	
7	January 7, 2021		7	Lily Cron, Esq.	
8	9:07 a.m. Central Standard Time		8	SIMPSON THACHER	
9			9	425 Lexington Avenue	
10	Videotaped remote deposition of		10	New York, NY 10017	
11	JEFF MCCUTCHEN, before Greta H. Duckett, CCR,		11		
12	RPR, CRR, CVR-S, RVR-M-S.		12		
13			13		
14			14		
15			15	Landon Thames, Esq.	
16			16	ACLU OF MISSISSIPPI	
17			17	P.O. Box 2242	
18			18	Jackson, MS 39225	
19			19		
20			20		
21			21		
22			22		
23			23		
24			24		
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1	JEFF MCCUTCHEN	Page 4	1	JEFF MCCUTCHEN	Page 5
2			2	Scott Hatch, videographer	
3	A P P E A R A N C E S		3		
4	C O N T I N U E D		4		
5			5		
6	FOR LAFAYETTE COUNTY, MISSISSIPPI:		6		
7			7		
8	Mr. David O'Donnell, Esq.		8		
9	CLAYTON O'DONNELL		9		
10	1403 Van Buren Avenue		10		
11	Oxford, MS 38655		11		
12			12		
13			13		
14			14		
15	FOR THE CITY OF OXFORD AND THE WITNESS:		15		
16			16		
17	Pope Mallette, Esq.		17		
18	MAYO MALLETT		18		
19	5 University Office Park		19		
20	2094 Old Taylor Road		20		
21	Oxford, MS 38655		21		
22			22		
23			23		
24			24		
25	ALSO PRESENT:				

<p style="text-align: right;">Page 6</p> <p>1 JEFF MCCUTCHEN</p> <p>2 I N D E X</p> <p>3</p> <p>4 EXAMINATION INDEX</p> <p>5</p> <p>6 JEFF MCCUTCHEN</p> <p>7</p> <p>8 BY MR. YOUNGWOOD 12</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 7</p> <p>1 JEFF MCCUTCHEN</p> <p>2 EXHIBIT INDEX</p> <p>3</p> <p>4 EXHIBIT 1 Article XX - Parades, 61</p> <p>5 Public Assemblies and</p> <p>6 Special Events</p> <p>7 EXHIBIT 2 4/20/2015 Facility Use 88</p> <p>8 Policy; Bates Lafayette</p> <p>9 County DOC000002 to</p> <p>10 Lafayette County DOC000005</p> <p>11</p> <p>12 EXHIBIT 6 3/4/2019 Facility Use 90</p> <p>13 Policy; Bates Lafayette</p> <p>14 County DOC000006 to</p> <p>15 Lafayette County DOC000010</p> <p>16 EXHIBIT 8 Oxford Police Department, 83</p> <p>17 Special Event, Parade, or</p> <p>18 Public Assembly Permit for</p> <p>19 Jennifer Samuels</p> <p>20</p> <p>21 EXHIBIT 9 Oxford Police Department, 82</p> <p>22 Special Event, Parade, or</p> <p>23 Public Assembly Permit for</p> <p>24 Wayne Andrews Lee Ann</p> <p>25 Stubbs</p> <p>EXHIBIT 11 Order: Amend Facility Use 90</p> <p>Policy Regarding Use of</p> <p>Courthouse Grounds; Bates</p> <p>Lafayette County DOC000052</p> <p>EXHIBIT 13 6/18/2020 email, White 110</p> <p>Supremacy Demonstration on</p> <p>Juneteenth; Bates</p> <p>Lafayette County Doc000502</p> <p>to Lafayette County</p> <p>Doc000503</p> <p>EXHIBIT 16 City of Oxford Event 82</p> <p>Permit Application for</p> <p>Kesha Howell Atkinson</p>
<p style="text-align: right;">Page 8</p> <p>1 JEFF MCCUTCHEN</p> <p>2 EXHIBIT INDEX</p> <p>3</p> <p>4 CONTINUED</p> <p>5 EXHIBIT 17 City of Oxford, Event 114</p> <p>6 Permit Application for</p> <p>7 Anna Charlotte Lavers</p> <p>8 EXHIBIT 21 6/29/2020 email string; 114</p> <p>9 Bates Lafayette County</p> <p>10 DOC000295 to Lafayette</p> <p>11 County DOC000302</p> <p>12 EXHIBIT 22 7/1/2020 email chain; 119</p> <p>13 Bates Lafayette County</p> <p>14 DOC000311 to Lafayette</p> <p>15 County DOC000313</p> <p>16 EXHIBIT 25 Facility Use Application 129</p> <p>17 and Permit, Lafayette</p> <p>18 County, Mississippi, for</p> <p>19 Rash</p> <p>20 EXHIBIT 27 Order: Approve Revision of 98</p> <p>21 Facilities Use Policy to</p> <p>22 Include a Requirement of</p> <p>23 Application to be Made 14</p> <p>24 Days Prior to Date of</p> <p>25 Proposed Use and Requiring</p> <p>Closure of Courthouse</p> <p>Grounds 30 Minutes Before</p> <p>Dusk</p> <p>EXHIBIT 28 Oxford Police Department, 76</p> <p>Special Event, Parade, or</p> <p>Public Assembly Permit for</p> <p>Arts Council Projection</p> <p>EXHIBIT 30 9/1/2020 email; Bates 131</p> <p>Sheriffs Department Docs -</p> <p>6</p> <p>EXHIBIT 31 Oxford Police Department, 79</p> <p>Special Event, Parade, or</p> <p>Public Assembly Permit for</p> <p>Visit Oxford</p>	<p style="text-align: right;">Page 9</p> <p>1 JEFF MCCUTCHEN</p> <p>2 EXHIBIT INDEX</p> <p>3</p> <p>4 CONTINUED</p> <p>5 EXHIBIT 33 Oxford Police Department, 81</p> <p>6 Special Event, Parade, or</p> <p>7 Public Assembly Permit for</p> <p>8 Wayne Andrews</p> <p>9 EXHIBIT 36 Email string between 40</p> <p>10 McCutchen from East</p> <p>11</p> <p>12 EXHIBIT 42 Photographs 21</p> <p>13</p> <p>14 EXHIBIT 43 Photograph 126</p> <p>15</p> <p>16 EXHIBIT 44 Photograph 128</p> <p>17</p> <p>18 EXHIBIT 45 Photograph (not provided) 129</p> <p>19</p> <p>20 EXHIBIT 52 6/21/2020 email 136</p> <p>21</p> <p>22 EXHIBIT 53 Operations Plan 116</p> <p>23</p> <p>24 EXHIBIT 55 7/4/2020 Oxford Police 117</p> <p>25 Department Operations Plan</p> <p>EXHIBIT 58 Video (link provided to 142</p> <p>counsel)</p>

<p style="text-align: right;">Page 10</p> <p>1 JEFF MCCUTCHEN</p> <p>2 THE VIDEOGRAPHER: Good</p> <p>3 morning, Counselors. My name is</p> <p>4 Scott Hatch. I'm a certified legal</p> <p>5 videographer, in association with</p> <p>6 TSG Reporting, Inc. Due to the</p> <p>7 severity of COVID-19 and following</p> <p>8 the practice of social distancing,</p> <p>9 I will not be in the room with the</p> <p>10 witness. Instead, I will record</p> <p>11 this videotaped deposition</p> <p>12 remotely. The reporter, Greta</p> <p>13 Duckett, also will not be in the</p> <p>14 same room and will swear the</p> <p>15 witness remotely.</p> <p>16 Do all parties stipulate to</p> <p>17 the validity of this video</p> <p>18 recording and remote swearing and</p> <p>19 that it will be admissible in the</p> <p>20 courtroom as if it had been taken</p> <p>21 following Rule 30 of the Federal</p> <p>22 Rules of Civil Procedures and the</p> <p>23 state's rules where this case is</p> <p>24 pending?</p> <p>25 MR. YOUNGWOOD: Yes -- yes,</p>	<p style="text-align: right;">Page 11</p> <p>1 JEFF MCCUTCHEN</p> <p>2 for plaintiff.</p> <p>3 MR. O'DONNELL: Yes, for the</p> <p>4 defendant.</p> <p>5 THE WITNESS: Yes, for the</p> <p>6 witness.</p> <p>7 THE VIDEOGRAPHER. Thank you.</p> <p>8 This is the start of media</p> <p>9 label number 1 of the</p> <p>10 video-recorded deposition of Jeff</p> <p>11 McCutchen in the matter John Rash</p> <p>12 versus Lafayette County,</p> <p>13 Mississippi, in the United States</p> <p>14 District Court for the Northern</p> <p>15 District of Mississippi, Oxford</p> <p>16 Division, case number</p> <p>17 3:20-cv-224-NBB-RP.</p> <p>18 This deposition is being held</p> <p>19 via videoconference, with all</p> <p>20 participants appearing remotely due</p> <p>21 to COVID-19 restrictions, on</p> <p>22 Thursday, January 7th, 2021, at</p> <p>23 approximately 9:09 a.m.</p> <p>24 My name is Scott Hatch. I'm</p> <p>25 a legal video specialist from TSG</p>
<p style="text-align: right;">Page 12</p> <p>1 JEFF MCCUTCHEN</p> <p>2 Reporting, Inc., headquartered at</p> <p>3 228 East 45th Street, New York, New</p> <p>4 York. The court reporter is Greta</p> <p>5 Duckett, in association with TSG</p> <p>6 Reporting.</p> <p>7 Counsel, please introduce</p> <p>8 yourselves.</p> <p>9 (Counsel stated appearances</p> <p>10 for the record.)</p> <p>11 THE VIDEOGRAPHER: All</p> <p>12 right. Thank you, Counselors.</p> <p>13 Will the court reporter</p> <p>14 please swear in the witness?</p> <p>15 (Statement by the court</p> <p>16 reporter.)</p> <p>17 JEFF MCCUTCHEN,</p> <p>18 the witness, having first been duly</p> <p>19 sworn to speak the truth, the whole truth and</p> <p>20 nothing but the truth, testified as follows:</p> <p>21 EXAMINATION</p> <p>22 BY MR. YOUNGWOOD:</p> <p>23 Q. Chief McCutchen, I'm going to</p> <p>24 address you as Chief McCutchen, unless you</p> <p>25 prefer to be addressed otherwise.</p>	<p style="text-align: right;">Page 13</p> <p>1 JEFF MCCUTCHEN</p> <p>2 A. No, sir. That's fine.</p> <p>3 Q. Okay. Thank you. And, Chief</p> <p>4 McCutchen, we had a moment just to chat before</p> <p>5 we went on the record and the video was turned</p> <p>6 on. Again, you have now heard me introduce</p> <p>7 myself two times; I'll do a third.</p> <p>8 I'm John Youngwood. I'm one of the</p> <p>9 attorneys working on this matter. Again, I</p> <p>10 recognize we're taking you away from your --</p> <p>11 your duties, and I appreciate your time. I</p> <p>12 will endeavor to be as efficient as I can and</p> <p>13 give you back part of your afternoon.</p> <p>14 If, at any point as we're going</p> <p>15 forward here, you need a break, just let us</p> <p>16 know, and you can have a break. The one thing</p> <p>17 I'd ask is that we try to answer any pending</p> <p>18 question before we take a break so you don't</p> <p>19 just walk out in the middle of a question.</p> <p>20 Have you been deposed before, sir?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Okay. In a civil-type proceeding?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Okay. How many times?</p> <p>25 A. One.</p>

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1 JEFF MCCUTCHEN

2 Q. What -- you don't have to tell me

3 the name of the case, but what was the general

4 nature of the proceeding?

5 A. It was a lawsuit involving a wreck

6 with one of our officers.

7 Q. Like, a car accident or something?

8 A. Yes, sir.

9 Q. And I'm going to assume you've

10 testified from time to time in court in

11 proceedings?

12 A. Yes, sir.

13 Q. Okay. And those are generally

14 proceedings associated with your duties as a

15 law enforcement officer?

16 A. Yes, sir.

17 Q. Okay. I know that you're currently

18 the chief of the Oxford police force, and I

19 think you've had that position either on an

20 interim or permanent basis, if I'm correct,

21 since February of 2019?

22 A. Yes, sir.

23 Q. Okay. When did you become -- when

24 did the title switch from interim to full-time

25 or permanent, whatever the right way to say it

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1 JEFF MCCUTCHEN

2 A. Patrol officer with the Oxford

3 Police Department.

4 Q. And how long did you hold that

5 position, or when did you start that position?

6 A. From 2005 until 2007, sometime in

7 2007.

8 Q. Okay. And it was 2007 when you

9 became the DUI -- or a DUI officer?

10 A. Yes, sir.

11 Q. Okay. And how about before 2005?

12 A. In 2003, the Batesville Police

13 Department hired me as a patrol officer.

14 Q. Okay. So 2005 is when you started

15 with Oxford; is that right?

16 A. Yes, sir.

17 Q. Okay. So, basically, 15, 16 years,

18 you've been working for the Oxford Police

19 Department?

20 A. Yes, sir.

21 Q. Okay. And so fair to say you're

22 fairly familiar with the Oxford area in the

23 course of your duties?

24 A. Yes, sir.

25 Q. Okay. Did you grow up in the area,

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1 JEFF MCCUTCHEN

2 is?

3 A. I believe January of 2020.

4 Q. Okay. And prior to assuming the

5 role as interim police chief, what position did

6 you have?

7 A. Major of operations.

8 Q. And how long did you hold that

9 position, sir?

10 A. From 2014 until 2019.

11 Q. Okay. And prior to that, what did

12 you do?

13 A. Criminal investigator.

14 Q. Again, for the Oxford police force?

15 A. Yes, sir.

16 Q. How long were you doing that?

17 A. I believe from 2008 to 2014.

18 Q. Okay. And prior to that, sir?

19 A. DUI officer with the Oxford Police

20 Department.

21 Q. And for how long prior to 2008 did

22 you have that position?

23 A. About six months, 2007, for about

24 six or eight months.

25 Q. Okay. And prior to that, sir?

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1 JEFF MCCUTCHEN

2 as well?

3 A. No, sir. I grew up in Union

4 County.

5 Q. Okay. And so when did you first

6 move to the Oxford area?

7 A. Around 2003 -- 2002, 2003.

8 Q. Okay. And I guess I should ask

9 you: Prior to 2003, what were you doing?

10 A. In 2002, I was hired by the Tippah

11 County Sheriff's Department to work in their

12 jail.

13 Q. Okay. And prior to that, sir?

14 A. Odd-and-end jobs as a college

15 student.

16 Q. Okay. So we're now back to where

17 you're high school, college?

18 A. Yes, sir.

19 Q. Let me ask you this: What year did

20 you graduate from college?

21 A. I finished it in 2007. I started

22 in 1999.

23 Q. Okay. So you had some overlap

24 between working and college?

25 A. Yes, sir.

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1 JEFF MCCUTCHEN

2 Q. Okay. And you started, you said,

3 in Two Thousand- -- I'm sorry -- 1999, you

4 graduated from high school in '99 or

5 thereabouts?

6 A. Yes, sir.

7 Q. Okay. Let's talk a little bit

8 about the Oxford police force today. How many

9 personnel are under your command?

10 A. Around 94. That's total officers

11 and civilian.

12 Q. Okay. And how many of those 94 are

13 officers, as opposed to civilians?

14 A. 80. 80 officers.

15 Q. Okay. And do you have a sense of

16 what the land area is that you're in charge of

17 policing?

18 A. Our jurisdictional property?

19 Q. Yes.

20 A. Yes, sir.

21 Q. What is that?

22 A. We cover -- really, I guess, the

23 four major boundaries would be 7 North,

24 Highway 7 North, just past Highway 30;

25 Highway 7 South just past County Road 401;

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1 JEFF MCCUTCHEN

2 A. It ultimately depends. It depends

3 on the severity of the incident. You know, if

4 we see a violent act, then we intervene. If

5 it's something that we can stand by, we

6 typically call the sheriff's department and

7 give them notice. And then -- depending on

8 where they're at and things like that. But we

9 only step in unless it's something of exigent

10 circumstances.

11 Q. Okay. Other than the courthouse

12 grounds, what other county grounds are within

13 the city limits?

14 A. You have the chancery building, you

15 also have a county property out on -- out off

16 of Highway 6 East that has multiple buildings.

17 It also has a municipal county courthouse there

18 with an arena. We have the Lafayette County

19 School District that has just been annexed in.

20 And I'm not -- that's the ones that's coming

21 off the top of my head.

22 Q. Okay. If we could turn to tab 42,

23 which we'll mark as Exhibit 42. So that,

24 hopefully, serves in the binder you were

25 provided. I'll give you a moment to find it.

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1 JEFF MCCUTCHEN

2 Highway 6 eastbound just past County Road 406;

3 and then Highway 6 westbound just past -- or

4 just before Wellsgate subdivision.

5 Q. And is that synonymous with the

6 geographic boundaries of the city of Oxford, or

7 is it in some way different than that?

8 A. No, sir. That's our city limits.

9 Q. Okay. Now, within the city, there

10 are some places that are county property; is

11 that right?

12 A. Yes, sir.

13 Q. And one of them -- we'll get to

14 this, obviously, a little bit later -- is the

15 county courthouse, correct?

16 A. Yes, sir.

17 Q. Okay. What is your jurisdiction

18 over county property that is within the city

19 limits?

20 A. We don't have jurisdiction over

21 county property.

22 Q. Okay. And what does that mean? If

23 you were to, say, see an incident on the

24 courthouse lawn, what are the abilities of your

25 officers to assist with that?

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1 JEFF MCCUTCHEN

2 A. Okay.

3 (Technical discussion.)

4 (Exhibit 42 was marked for

5 identification.)

6 BY MR. YOUNGWOOD:

7 Q. So this is tab 42 of the binder.

8 It's being marked as Exhibit 42 to your

9 deposition. It's a series of photographs. If

10 we just flip through them for a moment.

11 My question to you is: Do you

12 recognize these as different photos taken in

13 and around the courthouse grounds, the

14 Lafayette County Courthouse grounds?

15 A. Yes, sir.

16 Q. Okay. Are you aware, in your time

17 serving for the Oxford Police Department, of

18 any incidents of violence that have taken place

19 on the county courthouse grounds?

20 A. Specifically, no. Not off the top

21 of my head.

22 Q. Okay. And are you aware of any

23 incidents that have taken place on the

24 courthouse grounds where Oxford police officers

25 have had a need to intervene and go onto the

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1 JEFF MCCUTCHEN

2 courthouse grounds?

3 A. Yes, sir. There have been

4 incidents where we have jointly worked with the

5 County or -- or stood by.

6 Q. Okay. Can you tell me what you

7 recall of those?

8 A. You know, we've had -- we've had

9 different events, whether it was demonstrations

10 or large gatherings, that our office may have

11 actually been on site first or received radio

12 traffic. Specifically, you know, this summer,

13 we've had incidents where our staff had to

14 either stand by or work jointly with the

15 County. Again, a lot of it is -- was over

16 demonstrations. We've -- we've had people had,

17 you know, things thrown at them or events such

18 as that happen where we were either standing by

19 or, again, arriving first.

20 Q. So tell me about that, your

21 coordination between the City and the County.

22 How does that coordination come about? How

23 does it work?

24 A. As far as a spontaneous event or a

25 scheduled event?

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2 Q. And would it -- would it typically

3 be that you'd reach out to the County, Sheriff

4 East -- well, if you were having this

5 coordination, is it between you and Sheriff

6 East, or is it someone else? Or. . .

7 A. Typically, it would be

8 Sheriff East, myself, and then, depending on

9 the nature of the event, the size, and if it

10 was a march and where that march was going, we

11 would also speak with Chief Ray Hawkins on

12 campus.

13 Q. I wanted to ask you that: Like,

14 that's the third law enforcement organization

15 within the county, right, the university

16 police?

17 A. Yes, sir.

18 Q. Okay. An event that takes place in

19 the town square or on the courthouse grounds,

20 is that a coordination that involves all three

21 of your agencies, or just you and the County?

22 A. It involved all three this year, as

23 most of them had some type of impact. Again,

24 depending on the size and if it was a march, we

25 would most likely have to have all three

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1 JEFF MCCUTCHEN

2 Q. Let's do them separately. Why

3 don't we start with a scheduled event?

4 A. A scheduled event, typically, I

5 would speak with the sheriff and find out the

6 logistics of what was happening on their

7 property and if they had any needs of our

8 staff. Typically, if there's an event that is

9 happening on their property, it may impact the

10 location just -- I guess that would be east of

11 that property around our city hall. So even if

12 we didn't necessarily intervene, we would

13 typically staff something on the other side.

14 Q. Okay. And maybe this is what

15 you're doing. In terms of specific, you know,

16 planned events that involve the town square or

17 the courthouse, can you think of examples where

18 you and the County have coordinated with

19 respect to an event?

20 A. Yes, sir. Especially this summer.

21 We had several events, mostly of larger scale,

22 that neither our staff could manage alone or

23 their staff. You know, probably five to seven

24 events throughout 2020 that we prepared and

25 planned jointly with.

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1 JEFF MCCUTCHEN

2 agencies to be able to assist with traffic and

3 crowd control.

4 Q. Okay. So going to the summer, can

5 you remember specific -- we're talking summer

6 of 2020; it's now a new year. Going to the

7 summer of 2020, can you recall specific events

8 that required coordination of all three law

9 enforcement agencies?

10 A. Yes, sir. We had a series of

11 marches or demonstrations. I don't have the

12 specific dates in front of me, but I know we

13 had maybe four -- four that I can remember.

14 And each one, we coordinated with all three

15 agencies.

16 Q. Okay. So for example, there

17 were -- there were several pro-Confederate

18 marches this summer -- summer -- this summer,

19 again, being 2020; is that right?

20 A. One, that I can remember.

21 Q. Okay. There was an event, for

22 example, on July 4th weekend.

23 Do you remember that?

24 A. Yes, sir.

25 Q. Okay. Is that the one you're

<p>Page 26</p> <p>1 JEFF MCCUTCHEN</p> <p>2 thinking of, sir?</p> <p>3 A. Yes, sir.</p> <p>4 Q. And so what coordination, if you</p> <p>5 recall, took place in connection with that</p> <p>6 event?</p> <p>7 A. I believe that was a -- a county</p> <p>8 permit. And so we had anticipated a counter-</p> <p>9 voice there that day, and we were in</p> <p>10 communication with some of those members. So,</p> <p>11 you know, obviously, that was an event where we</p> <p>12 monitored our property as far as city hall or</p> <p>13 what we call the RSVP platform, and then,</p> <p>14 again, worked jointly there with the County and</p> <p>15 their staff. They -- they handled everything</p> <p>16 on their property, and we managed what was</p> <p>17 happening in the street or adjacent to them</p> <p>18 with our buildings and sidewalks.</p> <p>19 Q. Okay. Do you recall any violence</p> <p>20 being associated with that event?</p> <p>21 A. I don't believe so. No, sir. I</p> <p>22 don't believe any arrests were made.</p> <p>23 Q. Okay. And how about otherwise</p> <p>24 during the summer, the other events that --</p> <p>25 that you've referred to that took place on or</p>	<p>Page 27</p> <p>1 JEFF MCCUTCHEN</p> <p>2 near the courthouse grounds and the town</p> <p>3 square? Did any -- were any of them associated</p> <p>4 in the summer of 2020 with violence?</p> <p>5 A. No, sir.</p> <p>6 Q. Any arrests made that you recall in</p> <p>7 association with those events this past summer?</p> <p>8 A. I don't believe so.</p> <p>9 Q. Okay. When the -- you referenced</p> <p>10 that, like, it was a county permit. So you</p> <p>11 understand the County, in certain</p> <p>12 circumstances, will be asked and issue permits</p> <p>13 for use of the courthouse grounds?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Okay. What involvement do you have</p> <p>16 in that process?</p> <p>17 A. Typically, none. We eventually</p> <p>18 coordinated with our three jurisdictions, being</p> <p>19 the university, the county, and the city --</p> <p>20 along with our legal counsel -- to discuss</p> <p>21 making sure we keep lines of communication</p> <p>22 open. As I mentioned earlier, it typically</p> <p>23 takes all three agencies to assist. And so</p> <p>24 there were discussions, if multiple permits</p> <p>25 were issued on multiple days, would that take</p>
<p>Page 28</p> <p>1 JEFF MCCUTCHEN</p> <p>2 away resources for public safety.</p> <p>3 Q. Okay. And we'll perhaps get to a</p> <p>4 few examples later. But if the County gets a</p> <p>5 permit application -- and obviously, you</p> <p>6 don't -- you can't know what you don't know. I</p> <p>7 appreciate that. If the County gets a permit</p> <p>8 application, is it your experience that they'll</p> <p>9 reach out to you to ascertain the ways in which</p> <p>10 you -- your force can or cannot assist --</p> <p>11 A. We --</p> <p>12 Q. -- that day?</p> <p>13 A. -- we did through the summer. That</p> <p>14 was not necessarily a common practice, but that</p> <p>15 was something we implemented this summer.</p> <p>16 Q. Okay. And so how would that be?</p> <p>17 Did you and Sheriff East and the head of the</p> <p>18 university police force have regularly</p> <p>19 scheduled meetings or calls, or was it more as</p> <p>20 the permits would come in? How would -- how</p> <p>21 would you go about it?</p> <p>22 A. Typically, something like that</p> <p>23 would be a phone call conversation. If I</p> <p>24 received a permit or, you know, we received a</p> <p>25 phone call about a potential, we would just let</p>	<p>Page 29</p> <p>1 JEFF MCCUTCHEN</p> <p>2 people know to, you know, schedule their</p> <p>3 calendars in case we needed more assistance.</p> <p>4 Q. Do you recall any instances in the</p> <p>5 summer of 2020 where the County let you know</p> <p>6 that there was to be an event on county</p> <p>7 property, and you had to tell them that there</p> <p>8 was already too much activity going on</p> <p>9 involving your police force and you wouldn't be</p> <p>10 able to assist them if they needed it?</p> <p>11 A. I don't think we've ever denied</p> <p>12 them any assistance, even if we had an event.</p> <p>13 You know, we may tell them that we have an</p> <p>14 event scheduled, but not that we would deny</p> <p>15 assistance. We may tell them that our staff is</p> <p>16 going to be taxed from this time to this time.</p> <p>17 Q. And when you say that you don't</p> <p>18 think you've ever denied them assistance, you</p> <p>19 would always do your best to give them</p> <p>20 assistance if they needed it; is that fair to</p> <p>21 say?</p> <p>22 MR. O'DONNELL: Object to</p> <p>23 form.</p> <p>24 You can answer if you can.</p> <p>25 A. Yes. If we -- if we have the</p>

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2 resources.

3 Q. Okay. But you can't recall any

4 instances -- let's just keep it in the summer

5 of 2020 -- where you didn't believe you had the

6 resources to provide assistance?

7 MR. O'DONNELL: Object to

8 form.

9 A. I'm not --

10 MR. O'DONNELL: You can

11 answer. Go ahead.

12 A. I'm -- I'm not certain that we did

13 or we didn't. But there would have been

14 instances, if we had a permit scheduled, all of

15 our resources would have been specifically

16 tasked for that one event.

17 Q. Okay. But what I'm asking is,

18 if -- if you can recall an instance where, for

19 example, Sheriff East contacted you and said,

20 We have a request for an event; is there

21 something about the activity of your department

22 that would prevent us from having such an

23 event, you can't recall ever telling him

24 that -- that, no, we're too busy; we wouldn't

25 be able to help?

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2 Q. Okay. Any other instances like

3 that that you recall from summer of 2020?

4 A. Not that I recall.

5 Q. Okay. And you, sir, in your

6 testimony up to now, have somewhat called out

7 summer of 2020, I think, as -- if it's fair to

8 say, as a period of increased activity,

9 marches, and such. Is that fair to say that it

10 was a period of increased activity?

11 A. Yes, sir.

12 Q. Okay. In your time on the force,

13 can you recall a time period where there was as

14 much activity of that nature as there was in

15 the summer of 2020 in the city of Oxford?

16 A. No, sir.

17 Q. Okay. Let's talk a little bit more

18 about the town square and the courthouse

19 grounds. In your 15 years on the force,

20 what -- what types of public events are held on

21 the courthouse grounds?

22 A. You know, specifically, until

23 recently, that's really not been a position I

24 have been in to monitor. There's -- there's

25 been, you know, several events from Halloween

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2 A. I know we discussed an event that

3 we already had scheduled. So we had a permit,

4 and they contacted us about a potential county

5 permit. And I told him, for our police force,

6 we were tasked for this one event for this day.

7 And so, you know, no guarantees that we could

8 assist or help in that matter. And our streets

9 would be blocked. Because I believe ours was a

10 march. So, for us, we would be completely

11 tasked for that one event.

12 Q. What -- what event are you thinking

13 of?

14 A. We had -- I believe the -- the name

15 of the event was LO Unity. It was coordinated

16 by some University of Mississippi football

17 players. That was a scheduled event that would

18 take place in front of city hall that led to a

19 march. And so we would have that tasked

20 pre-event, during the event, and post-event.

21 Q. Okay. Do you remember when that

22 was, sir?

23 A. Not specifically the day.

24 Q. Okay. Summer of 2020?

25 A. Yes, sir.

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2 events -- I've seen some different, you know,

3 shopping events up there. I mean, it's been

4 kind of a wide range of events.

5 Q. Okay. There's been displays in

6 past summers -- am I correct -- of films, say,

7 on the courthouse walls?

8 MR. O'DONNELL: Object to

9 form.

10 A. That, I do not know. I -- I have

11 never seen any.

12 Q. Okay. The Halloween events that

13 you referred to, those are nighttime events?

14 Daytime events?

15 A. Nighttime.

16 Q. Okay. And what other types of

17 nighttime events have taken place on the

18 courthouse grounds while you've been with the

19 Oxford police force?

20 A. The Halloween may be the only thing

21 that I recall having up there.

22 Q. Okay. Feel free to look through

23 the pictures that are marked as Exhibit 42, if

24 helpful. But you would agree with me, sir,

25 that there's a low fence surrounding much of

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2 the courthouse grounds?

3 A. Yes, sir.

4 Q. And there are multiple breaks in

5 that fence as you walk around the building;

6 fair to say?

7 A. Yes, sir.

8 Q. And those -- those openings,

9 there's no gate that closes them, correct?

10 A. Correct.

11 Q. And those openings are generally

12 left open, correct, at night and at all times

13 of day?

14 A. Yes, sir.

15 Q. Okay. There are no signs posted on

16 the courthouse that indicate a restriction of

17 access to the courthouse grounds at nighttime,

18 correct?

19 A. None that I see. I'm not -- I'm

20 not aware of any.

21 Q. Okay. Have you -- strike that.

22 In the town square, am I correct

23 that the City of Oxford has various security

24 cameras?

25 A. Yes, sir.

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2 Q. Yeah. It's page B-3, says on the

3 bottom.

4 A. Yes, sir.

5 Q. Are those on -- illuminated at

6 night?

7 A. I'm not certain if they are all the

8 time. I --

9 Q. Okay.

10 A. It's not something I've paid a lot

11 of attention to.

12 Q. And then there seems to be a light

13 kind of on the bottom of the globes that

14 appears to be pointed at the courthouse. Are

15 those illuminated -- do you know -- at night?

16 A. Specifically, I don't know, sir.

17 Q. The square itself is surrounded by

18 retail and restaurants; is that largely

19 correct?

20 A. Yes, sir.

21 Q. And at least up until certain hours

22 of the night, I take it, that those storefronts

23 and restaurants would be illuminated as well?

24 A. Yes, sir.

25 Q. Okay. Have you observed --

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2 Q. Can you tell me about those,

3 please?

4 A. Specifically located around city

5 hall, we have some pointing -- which would be

6 west -- and then I believe south. I don't know

7 that we have a full range of every angle.

8 Q. Okay. And, in part, these cameras

9 focus on the courthouse?

10 A. Potentially one, but not -- I

11 wouldn't say focus. You get some -- some

12 angles.

13 Q. Okay. In terms of lighting,

14 describe the lighting in the square and in the

15 courthouse area for me, the nighttime lighting.

16 A. On a normal night -- you know, it's

17 a little different during the holiday season --

18 but, typically, there's, you know, regular

19 streetlights that stream around the outside of

20 the square -- or the inside of the square.

21 Q. Okay. And then I'll give you a few

22 examples. If you turn to the third page of

23 these photos, there's a -- what looks to me to

24 be a streetlight within the courthouse grounds.

25 A. The globed multi --

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2 separate from protests or other marches or

3 activity like that, have you observed how

4 citizens use the courthouse grounds in your

5 time on the Oxford police force?

6 A. Are we speaking specifically after

7 hours?

8 Q. Well, let's start during the day,

9 and then we'll go to the evening, perhaps. And

10 perhaps it changes during the week and the

11 weekend. I understand that too.

12 A. Yes, sir. I would say, during the

13 daytime, it's typically used as business for

14 those coming and going, or court sessions.

15 Q. There are multiple benches within

16 the grounds? It --

17 A. Yes, sir.

18 Q. -- depicted some of them.

19 And people might congregate on

20 those benches?

21 A. Yes, sir.

22 Q. Okay. They might have a cup of

23 coffee or a meal, like a sandwich or something,

24 perhaps, on the --

25 A. Yes, sir.

<p style="text-align: right;">Page 38</p> <p>1 JEFF MCCUTCHEN</p> <p>2 Q. Okay. And how about in the</p> <p>3 evening? We've discussed that there's no</p> <p>4 closing of the gates. Do people go onto the</p> <p>5 courthouse grounds in the evening?</p> <p>6 A. From time to time, yes, sir.</p> <p>7 Q. Okay. Your officers have never</p> <p>8 prevented somebody from going onto the</p> <p>9 courthouse grounds in the evening, have they?</p> <p>10 A. No, sir.</p> <p>11 Q. You're not aware of any arrests,</p> <p>12 for example, made because somebody walked onto</p> <p>13 the courthouse grounds after -- after dusk?</p> <p>14 A. No, sir.</p> <p>15 Q. You don't see it as a safety hazard</p> <p>16 that somebody would be on the courthouse</p> <p>17 grounds after dusk, do you?</p> <p>18 MR. O'DONNELL: Object to</p> <p>19 form.</p> <p>20 A. That's something that I would not</p> <p>21 be aware of as far as safety concerns or</p> <p>22 information that the County may have.</p> <p>23 Q. Okay. But from what you've</p> <p>24 observed -- and I recognize the difference in</p> <p>25 the jurisdiction. But from what you've</p>	<p style="text-align: right;">Page 39</p> <p>1 JEFF MCCUTCHEN</p> <p>2 observed, you've never seen safety incidents</p> <p>3 arise out of people being on the courthouse</p> <p>4 grounds after dusk?</p> <p>5 A. It --</p> <p>6 MR. O'DONNELL: Object to</p> <p>7 form.</p> <p>8 A. It would depend. Again, depending</p> <p>9 on the size of the gathering. It would not be</p> <p>10 uncommon for us to put a phone call in to the</p> <p>11 sheriff's department to notify them or stand by</p> <p>12 until a deputy arrives.</p> <p>13 Q. Okay. Can you think of any</p> <p>14 incidents where you did such a thing on the --</p> <p>15 with respect to the courthouse grounds?</p> <p>16 A. Yeah. Specifically this summer,</p> <p>17 with different gatherings or disruptions on</p> <p>18 their property, we would contact them or stand</p> <p>19 by or at least moderate until we could get</p> <p>20 some -- a deputy on scene.</p> <p>21 Q. Okay. Are you aware of any of</p> <p>22 those incidents resulting in arrests?</p> <p>23 A. Not with our -- with our officers.</p> <p>24 Q. Well, are you aware of the County</p> <p>25 sheriff's department arresting anyone for being</p>
<p style="text-align: right;">Page 40</p> <p>1 JEFF MCCUTCHEN</p> <p>2 on the courthouse grounds after dark this past</p> <p>3 summer of 2020?</p> <p>4 A. I don't have any knowledge of that,</p> <p>5 no, sir.</p> <p>6 Q. Okay. Let's take a look, sir, at</p> <p>7 tab 36, which we'll mark as Exhibit 36.</p> <p>8 (Exhibit 36 was marked for</p> <p>9 identification.)</p> <p>10 BY MR. YOUNGWOOD:</p> <p>11 Q. I'll give you a moment -- I'm going</p> <p>12 to first ask you about the email chain. And</p> <p>13 then it's separated by -- hopefully, in your</p> <p>14 binder, by a blue piece of paper, and there's a</p> <p>15 document attached. I'm going to start with the</p> <p>16 email chain, and then we'll get to the</p> <p>17 document.</p> <p>18 A. Okay.</p> <p>19 Q. Okay. So, Chief, if I go to the</p> <p>20 second page of the email dated October 9, this</p> <p>21 is an email from Sheriff East to you. And he</p> <p>22 refers in the second sentence to a case in</p> <p>23 federal court.</p> <p>24 Do you see that?</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">Page 41</p> <p>1 JEFF MCCUTCHEN</p> <p>2 Q. Okay. So I probably should have</p> <p>3 done this earlier. Do you have any</p> <p>4 understanding of what this litigation is about?</p> <p>5 You're not a party to it, but do you have an</p> <p>6 understanding of what it's about?</p> <p>7 A. Yes, sir. Some general knowledge.</p> <p>8 Q. Okay. What's -- I'm not -- it's</p> <p>9 not a test, but just what is that general</p> <p>10 knowledge?</p> <p>11 A. About a permit or an event that was</p> <p>12 to be projected onto the building or monument</p> <p>13 there on their grounds.</p> <p>14 Q. Okay. So we'll -- we'll get to</p> <p>15 that event. And the plaintiff in the case,</p> <p>16 Mr. Rash, do you know who he is?</p> <p>17 A. I don't.</p> <p>18 Q. Okay. You don't think -- I mean,</p> <p>19 obviously, you may have encountered him and not</p> <p>20 know it. But, to your knowledge, you've never</p> <p>21 interacted with Mr. Rash?</p> <p>22 A. Not to my knowledge.</p> <p>23 Q. Okay. And I take it, before you</p> <p>24 learned of this lawsuit, you'd never heard of</p> <p>25 him?</p>

<p style="text-align: right;">Page 42</p> <p>1 JEFF MCCUTCHEN</p> <p>2 A. No, sir.</p> <p>3 Q. Okay. And when did you first learn</p> <p>4 of this lawsuit?</p> <p>5 A. Probably around the time of this</p> <p>6 email.</p> <p>7 Q. Okay. So the chief sends you this.</p> <p>8 Did you have any phone conversation or</p> <p>9 discussion that isn't referenced in this chain</p> <p>10 regarding the request?</p> <p>11 A. I believe this was the first</p> <p>12 conversation that I had in reference to any of</p> <p>13 this.</p> <p>14 Q. Okay. And did you then speak with</p> <p>15 him or get more information than what's in the</p> <p>16 email about the case? Because the email</p> <p>17 doesn't say as much as you just said you</p> <p>18 understood about the case.</p> <p>19 A. From what I remember, I received</p> <p>20 the email, and then obviously responded that we</p> <p>21 would work on it. I then tasked Deputy Chief</p> <p>22 Sheridan Maiden to run the report, which I</p> <p>23 think he eventually assigned it to one of our</p> <p>24 records clerks. So the general -- the</p> <p>25 conversation that I had with the -- with the</p>	<p style="text-align: right;">Page 43</p> <p>1 JEFF MCCUTCHEN</p> <p>2 sheriff was we would get it; we would compile</p> <p>3 it, and then get it back to him.</p> <p>4 Q. Okay. There's a reference on the</p> <p>5 first page to Ms. Val. Who is that?</p> <p>6 A. She is our records clerk.</p> <p>7 Q. Okay. So that's who you're</p> <p>8 referring to. And then there's a reference</p> <p>9 higher up to Ms. Cathy. Who's that?</p> <p>10 A. That would be a staff member at the</p> <p>11 sheriff's department.</p> <p>12 Q. Okay. So you asked Ms. Val -- and</p> <p>13 I'm sorry. What's Ms. Val's full name?</p> <p>14 A. Valerie Booth.</p> <p>15 Q. Okay. So I'm going to call her,</p> <p>16 for this, Ms. Booth. You -- you tasked</p> <p>17 Ms. Booth with gathering the data; is that fair</p> <p>18 to say?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Okay. And then what's -- other</p> <p>21 than asking her to do it, did you have anything</p> <p>22 to do with gathering the data?</p> <p>23 A. No, sir. The deputy chief and I</p> <p>24 discussed making sure we gave some accurate</p> <p>25 information as far as how many officers are</p>
<p style="text-align: right;">Page 44</p> <p>1 JEFF MCCUTCHEN</p> <p>2 routinely working that area. The rest of it, I</p> <p>3 believe, was either archived data in our CAD</p> <p>4 system or videos that would have been -- would</p> <p>5 have been pulled by the City.</p> <p>6 Q. Okay. So I have this piece of</p> <p>7 paper that's the last page of this exhibit in</p> <p>8 this tab 36. I'm going to want to walk through</p> <p>9 that with you in a moment. But other than this</p> <p>10 piece of paper, did you provide anything to the</p> <p>11 County or to Sheriff East in connection with</p> <p>12 this lawsuit?</p> <p>13 A. I believe all we provided was the</p> <p>14 documents of the data.</p> <p>15 Q. So I'm trying to understand that.</p> <p>16 By "documents of the data," do you mean this</p> <p>17 piece of paper, or do you mean backup to this</p> <p>18 piece of paper?</p> <p>19 A. Is there -- I have page 1 and</p> <p>20 page 2. Do you have something else?</p> <p>21 Q. I have in this tab a two-page</p> <p>22 email, right, which is what we've just been</p> <p>23 looking at.</p> <p>24 A. Right.</p> <p>25 Q. Just the -- and separated by a</p>	<p style="text-align: right;">Page 45</p> <p>1 JEFF MCCUTCHEN</p> <p>2 page -- I have a one-page document that looks</p> <p>3 like this (indicating).</p> <p>4 Is it not -- I was wondering if you</p> <p>5 were looking at the --</p> <p>6 (Simultaneous speakers.)</p> <p>7 A. Yes.</p> <p>8 Q. It's five numbered items.</p> <p>9 A. Yes, sir.</p> <p>10 Q. Okay. So that -- that's all I -- I</p> <p>11 don't have two pages of data; I just have this</p> <p>12 one page. Is that what you mean?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Okay. Other than this page, which</p> <p>15 we will get to, is there anything else that</p> <p>16 you, to your recollection -- you or the city</p> <p>17 police department -- have provided to the</p> <p>18 County that you understand to be in connection</p> <p>19 with this litigation?</p> <p>20 A. The only other thing that I could</p> <p>21 think of would have -- could have potentially</p> <p>22 been a document file. And I -- this could be</p> <p>23 it. Again, Ms. Valerie shared that with them.</p> <p>24 But there could have been an Excel sheet on --</p> <p>25 because I know that in the email, we replied</p>

<p style="text-align: right;">Page 46</p> <p>1 JEFF MCCUTCHEN</p> <p>2 that it's a whole lot of data. So I'm not --</p> <p>3 Q. That's -- yeah. Yeah.</p> <p>4 A. I'm not sure if this was the data</p> <p>5 that they were referring to or if they shared a</p> <p>6 file to him.</p> <p>7 Q. Okay. And who -- who would have</p> <p>8 actually sent this one page that we have? You</p> <p>9 or someone else?</p> <p>10 A. It would have either been Deputy</p> <p>11 Chief Maiden or Ms. Valerie Booth.</p> <p>12 Q. And who do you think they would</p> <p>13 have sent it to?</p> <p>14 A. I believe it was to Ms. Cathy.</p> <p>15 Q. Okay. And if there was something</p> <p>16 else they sent, like a data file, some zip</p> <p>17 file, something, it would have been from one of</p> <p>18 those two individuals, you think, likely to</p> <p>19 Ms. Cathy?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Okay. Did you review this sheet</p> <p>22 before it went?</p> <p>23 A. Not specifically this sheet. The</p> <p>24 deputy chief and I discussed it. But I -- this</p> <p>25 is the first time I can remember looking at it.</p>	<p style="text-align: right;">Page 47</p> <p>1 JEFF MCCUTCHEN</p> <p>2 Q. Okay. One of the things you</p> <p>3 indicated in your answer four or five minutes</p> <p>4 ago was a discussion of how many individuals</p> <p>5 are assigned to, I think you said, patrol the</p> <p>6 downtown area. Do you remember you -- you --</p> <p>7 Do I understand that correctly? It</p> <p>8 doesn't matter if you said it before. Do I</p> <p>9 understand that that was one of the things you</p> <p>10 understood you were being asked for?</p> <p>11 A. Yes, sir. That was one of their</p> <p>12 questions.</p> <p>13 Q. Okay. And is that information that</p> <p>14 you gave?</p> <p>15 A. Yes, sir. That appears to be</p> <p>16 question 3.</p> <p>17 Q. Okay. What I don't see in</p> <p>18 question 3 is, for example, specific -- well,</p> <p>19 it talks about the football games. But this --</p> <p>20 I'm not meaning to say it was or wasn't</p> <p>21 provided. This is the response to that</p> <p>22 question; nothing else?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Okay. The data under number 1, All</p> <p>25 data pertaining to arrests in the downtown area</p>
<p style="text-align: right;">Page 48</p> <p>1 JEFF MCCUTCHEN</p> <p>2 for the last five years, do you know where this</p> <p>3 information came from?</p> <p>4 A. That would have come from our</p> <p>5 computer system.</p> <p>6 Q. Okay. And what does "downtown</p> <p>7 area" mean?</p> <p>8 A. For us, that's a geographical area</p> <p>9 consisting of the boundaries outside of what we</p> <p>10 call the square, which would connect University</p> <p>11 Avenue and South Lamar, Ninth Street and</p> <p>12 Jackson Avenue, North Lamar and Jefferson, and</p> <p>13 then East Jackson and maybe 13th Street.</p> <p>14 Q. So an area meaningfully larger than</p> <p>15 the square itself?</p> <p>16 A. Yes, sir. There are some outside</p> <p>17 parameters that we cover.</p> <p>18 Q. Any -- I mean, we can look at a map</p> <p>19 and do the math, perhaps. But any sense of</p> <p>20 what percentage of what you define to be the</p> <p>21 downtown area is the square itself?</p> <p>22 A. I mean, that's the majority.</p> <p>23 Q. Okay. And the courthouse, of</p> <p>24 course, is only a portion of the square?</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">Page 49</p> <p>1 JEFF MCCUTCHEN</p> <p>2 Q. Okay. Of these arrests that you</p> <p>3 list, were any made on the courthouse grounds</p> <p>4 or on the grounds that constitute the</p> <p>5 Confederate statue outside the courthouse?</p> <p>6 A. No, sir.</p> <p>7 Q. Okay. Do you have a -- do you have</p> <p>8 a further breakdown of the nature of these</p> <p>9 arrests?</p> <p>10 A. No, sir.</p> <p>11 Q. Okay. Do you know if any of these</p> <p>12 arrests related to permitted activities?</p> <p>13 A. Not to my knowledge.</p> <p>14 Q. Do you know what percentage of</p> <p>15 these arrests took place after dark?</p> <p>16 A. I would assume the majority of</p> <p>17 them.</p> <p>18 Q. Okay. And is that -- and why do</p> <p>19 you assume that?</p> <p>20 A. That's typically where we have the</p> <p>21 majority of our violence, is after dark. We</p> <p>22 have larger crowds after dark. We have a --</p> <p>23 everyone condenses in a tighter circle of the</p> <p>24 square. And, again, we have more police</p> <p>25 presence up there to monitor that.</p>

<p style="text-align: right;">Page 50</p> <p>1 JEFF MCCUTCHEN</p> <p>2 Q. And where is that tighter area of</p> <p>3 the square that they condense?</p> <p>4 A. 10th Street. 10th Street, Jackson</p> <p>5 Avenue, 10th and Van Buren, and then Van Buren</p> <p>6 just to the city hall side. Again, that's</p> <p>7 probably -- it's close to 13th Street. So,</p> <p>8 really, just the inner circle of the square and</p> <p>9 a couple hundred feet to each side of the</p> <p>10 square.</p> <p>11 Q. Okay. And is that because that's</p> <p>12 where the bars and restaurants are congregated?</p> <p>13 A. Yes, sir. But it's also some of</p> <p>14 the larger parking areas and the garage and</p> <p>15 places like that.</p> <p>16 Q. Okay. So it's -- it's -- to just</p> <p>17 use a shorthand, it's the night life that</p> <p>18 somewhat brings people in to congregate, and</p> <p>19 sometimes trouble erupts?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Number 2 is -- is concerning motor</p> <p>22 vehicle and pedestrian wrecks. I'm</p> <p>23 sorry. Strike that. I just want to go back to</p> <p>24 number 1 for a minute.</p> <p>25 Do you know how the year 2020</p>	<p style="text-align: right;">Page 51</p> <p>1 JEFF MCCUTCHEN</p> <p>2 ended? This says 35 as of November 23. Do you</p> <p>3 know what happened the last five weeks of the</p> <p>4 year?</p> <p>5 A. No, sir, I don't.</p> <p>6 Q. Okay. But is it likely that the</p> <p>7 number stayed relatively low through the end of</p> <p>8 2020?</p> <p>9 A. Yes, sir.</p> <p>10 MR. O'DONNELL: Object to</p> <p>11 form.</p> <p>12 BY MR. YOUNGWOOD:</p> <p>13 Q. And what do you attribute -- it</p> <p>14 seems that 2020 is markedly lower than each of</p> <p>15 the prior four years that you list. What do</p> <p>16 you attribute that to?</p> <p>17 A. Mostly COVID restrictions, the</p> <p>18 attendance and the ability to bring people in,</p> <p>19 our ball game attendance, things -- things like</p> <p>20 that.</p> <p>21 Q. Okay. So less social activity,</p> <p>22 less arrests, effectively?</p> <p>23 A. Potentially, yes, sir.</p> <p>24 Q. Yeah. What -- it does look like</p> <p>25 there are fewer arrests in 2018, '19, than</p>
<p style="text-align: right;">Page 52</p> <p>1 JEFF MCCUTCHEN</p> <p>2 there had been in '17 and '16. Do you have any</p> <p>3 sense of what that trend can be attributed to?</p> <p>4 A. No, sir. I mean, that could be a</p> <p>5 lot of factors, depending on what the student</p> <p>6 population was like, what the athletic teams</p> <p>7 were like, and, again, what our ball game</p> <p>8 weekends weather-wise was like during baseball</p> <p>9 season.</p> <p>10 Q. Okay. And are those the types of</p> <p>11 things that tend to drive increases in arrests,</p> <p>12 these -- I think you've listed a lot of</p> <p>13 college-related activities and social events</p> <p>14 associated with young people congregating.</p> <p>15 A. It -- it really depends. We do</p> <p>16 have, you know, quite a few large events</p> <p>17 throughout the year. And, again, it just</p> <p>18 depends on what our crowds look like, what our</p> <p>19 population looked like. And it does generate a</p> <p>20 lot from the college, but we have a large adult</p> <p>21 gathering as well.</p> <p>22 Q. Okay. And I think I asked you this</p> <p>23 in a different way, but to be clear: Any of</p> <p>24 these arrests that are listed under number 1,</p> <p>25 to your knowledge, associated with marches of</p>	<p style="text-align: right;">Page 53</p> <p>1 JEFF MCCUTCHEN</p> <p>2 any sort?</p> <p>3 A. I don't believe so.</p> <p>4 Q. Okay. Or other types of political</p> <p>5 activity?</p> <p>6 A. Not to my knowledge.</p> <p>7 Q. How about artistic presentations?</p> <p>8 A. No, sir.</p> <p>9 Q. Okay. And how about -- I think,</p> <p>10 again, you've said this generally, but I'm</p> <p>11 going to ask for the downtown permitted</p> <p>12 activity.</p> <p>13 A. I don't believe so. Again, my</p> <p>14 knowledge base would be greater in '19 and '20.</p> <p>15 Q. Okay. Well, but focusing there,</p> <p>16 you can't recall any associated with</p> <p>17 permitted -- permitted activity in '19 or '20?</p> <p>18 A. No, sir.</p> <p>19 Q. Okay. Now we'll go to 2. The</p> <p>20 motor vehicle and pedestrian incidents, where</p> <p>21 does this data come from?</p> <p>22 A. Again, that would come from our</p> <p>23 generated computer system.</p> <p>24 Q. Okay. And this doesn't seem to be</p> <p>25 limited to the downtown area, or -- or is it,</p>

<p style="text-align: right;">Page 54</p> <p>1 JEFF MCCUTCHEN</p> <p>2 in some way?</p> <p>3 A. I believe so, yes, sir. We</p> <p>4 typically average, for the city, well over a</p> <p>5 thousand crashes a year. So I would assume</p> <p>6 this is specifically for those roads in</p> <p>7 conjunction with the downtown area.</p> <p>8 Q. Okay. So you typically average</p> <p>9 more than a thousand, but the highest number</p> <p>10 here for any given year is 58, right?</p> <p>11 A. Yes.</p> <p>12 Q. And not holding you to the</p> <p>13 thousand, but that would suggest that -- let's</p> <p>14 just take 2017 -- that the number -- the</p> <p>15 percentage of crashes taking place in the</p> <p>16 downtown area were five or six percent of the</p> <p>17 total city crashes?</p> <p>18 A. Yes, sir. Without looking at the</p> <p>19 data, yes, sir.</p> <p>20 Q. Okay.</p> <p>21 A. It's lower.</p> <p>22 Q. And I guess I'm curious. The</p> <p>23 nature of the crash that's going to take place</p> <p>24 in the downtown area, I assume cars are going</p> <p>25 at a slower speed in the downtown area than</p>	<p style="text-align: right;">Page 55</p> <p>1 JEFF MCCUTCHEN</p> <p>2 they might be in other parts of the city.</p> <p>3 A. There -- they should be.</p> <p>4 Q. All right. Fair point.</p> <p>5 Again, we seem to have a trend</p> <p>6 downward where there are, you know, 58 and 43</p> <p>7 in '17 and '16, and then you're in the 20s for</p> <p>8 the other three years. Can you attribute that</p> <p>9 to anything?</p> <p>10 A. I think it's the same as question</p> <p>11 one with the crowd size.</p> <p>12 Q. Okay. Let's go to number 3. So</p> <p>13 you were asked about patrols in the downtown</p> <p>14 area. And it -- who -- now, this response,</p> <p>15 which isn't from data, did you play a role in</p> <p>16 answering these questions?</p> <p>17 A. Yes, sir. The deputy chief and I</p> <p>18 discussed these.</p> <p>19 Q. Okay. And then you had -- you gave</p> <p>20 that information to Ms. Booth, and she compiled</p> <p>21 it? Is that what happened?</p> <p>22 A. That was probably something that</p> <p>23 the deputy chief sat down with her with.</p> <p>24 Q. Okay. So help me walk through</p> <p>25 these. A, there's a downtown shift that covers</p>
<p style="text-align: right;">Page 56</p> <p>1 JEFF MCCUTCHEN</p> <p>2 the square area. That's the same -- well, what</p> <p>3 do we mean here by "square area"? What's --</p> <p>4 A. That would be the area we described</p> <p>5 earlier from University and North Lamar, things</p> <p>6 like that.</p> <p>7 Q. Okay. So it's saying "square," but</p> <p>8 square is also sort of synonymous with what</p> <p>9 you've described as the downtown area?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Okay. And it says, It's staffed by</p> <p>12 seven patrol officers who work 10-hour shifts,</p> <p>13 five days a week.</p> <p>14 Does that mean, at any point in</p> <p>15 time, there are seven officers, or does it vary</p> <p>16 by time of day?</p> <p>17 A. It can vary. So it would depend on</p> <p>18 the time of the year; it would depend on the</p> <p>19 events that we have taking place. A routine</p> <p>20 shift for them would look like a Wednesday</p> <p>21 through Saturday. And, again, before COVID and</p> <p>22 before some of the time restrictions, it was</p> <p>23 more of a 4:00 p.m. to 2:00 a.m. shift work.</p> <p>24 Q. I see. So on a typical -- and is a</p> <p>25 Saturday different than a Wednesday?</p>	<p style="text-align: right;">Page 57</p> <p>1 JEFF MCCUTCHEN</p> <p>2 A. No, sir. They -- they would --</p> <p>3 they normally would work a 4:00-to-2:00.</p> <p>4 Q. And 4:00 is p.m. to 2:00 a.m.?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Okay. And so any given afternoon</p> <p>7 into the evening, there should be seven of your</p> <p>8 officers walking around the downtown area?</p> <p>9 A. In a perfect world, if we're fully</p> <p>10 staffed. We've been as low as two, we've been</p> <p>11 as high as eight, I believe, that have been</p> <p>12 stationed down there.</p> <p>13 Q. Okay.</p> <p>14 A. Generally speaking, we probably</p> <p>15 have four to six on average.</p> <p>16 Q. Okay. And then from 2:00 a.m. to</p> <p>17 4:00 p.m., not patrolled, or something lesser?</p> <p>18 A. It is generally patrolled by the</p> <p>19 patrol division. So they will make routine</p> <p>20 drives through or respond to calls of service.</p> <p>21 Q. Okay. Help me on that. What does</p> <p>22 that mean, "the patrol division"? Is that like</p> <p>23 a more general division that has responsibility</p> <p>24 throughout the city, rather than a specific</p> <p>25 area?</p>

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1 JEFF MCCUTCHEN
2 A. Yes, sir. Patrol handles what you
3 would consider any typical radio call or beat
4 assignment. The downtown district was created
5 a few years ago because of the disturbances and
6 need for additional security down there for
7 specific times.
8 Q. Okay. The second one here, it
9 says, B, the downtown shift hours of deployment
10 is sometimes affected by events and the time of
11 the events --
12 (Court reporter
13 clarification.)
14 BY MR. YOUNGWOOD:
15 Q. The downtown shift hours of
16 deployment is sometimes affected by the events
17 and time of the events in and around the
18 square.
19 What does that mean?
20 A. It would depend on if there's an
21 event, if it's Double Decker, if it's an
22 11:00 a.m. kickoff or 2:30 kickoff. It's
23 graduation weekend. Again, if it's a permitted
24 event that we would need some extra officers,
25 they -- they kind of work on a sliding scale,

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1 JEFF MCCUTCHEN
2 specifically refers to that, right?
3 A. I don't believe so.
4 Q. Okay. And nothing here that
5 specifically refers to the statue, correct?
6 A. Correct.
7 Q. There's a reference to three
8 shootings in D. What were those three
9 shootings?
10 A. I know -- I believe all three of
11 them were in restaurant or bar establishments.
12 Q. Okay. That -- that are around the
13 courthouse -- around the square?
14 A. Yes, sir. Within the downtown
15 district.
16 Q. Yeah. And then there's this
17 request for video. You say that you don't have
18 video, but the City's EMA --
19 And I apologize. What does "EMA"
20 mean?
21 A. Emergency management.
22 Q. Okay.
23 -- may have some on the system.
24 Do you know if any video was
25 provided?

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1 JEFF MCCUTCHEN
2 depending on the needs.
3 Q. Okay. And maybe that's partially
4 covered by C as well. Going to D, it says, We
5 have had as many as 25 additional officers
6 assigned to the downtown shift and as few as
7 five.
8 That's dependent on the factors or
9 at least partially dependent on the factors you
10 just listed?
11 A. Yes, sir.
12 Q. Would it -- could it also be
13 dependent on whether or not there's a permitted
14 event in the downtown area?
15 A. Yes, sir.
16 Q. Going to four, there's a list of
17 safety concerns. Did you play a role in
18 assembling these?
19 A. Yes, sir.
20 Q. I don't see anything specific in
21 this list -- but I'm going to ask you if I'm
22 missing it -- that relates to the courthouse
23 grounds.
24 A. No, sir.
25 Q. There's nothing here that

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1 JEFF MCCUTCHEN
2 A. I don't know.
3 Q. Okay. What role do you play in the
4 City of Oxford issuing permits?
5 A. The permit is filed with the city
6 clerk, and then typically forwarded to one of
7 our code enforcement officers, who then will
8 send it in an email or bring it by the office.
9 At that point, we begin to gather information
10 and talk to the coordinators.
11 Q. Let's go to tab 1, Chief, if you
12 don't mind.
13 (Exhibit 1 was marked for
14 identification.)
15 MR. YOUNGWOOD: Okay.
16 MR. O'DONNELL: John, just on
17 that housekeeping matter, your tab
18 36, is that --
19 MR. YOUNGWOOD: That's
20 Exhibit 36. Yes, if I didn't --
21 MR. O'DONNELL: Okay. That's
22 a test. Okay.
23 MR. YOUNGWOOD: Thank
24 you. Thank you very much.
25 ///

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1 JEFF MCCUTCHEN

2 BY MR. YOUNGWOOD:

3 Q. Okay. So these appear to be the --

4 the guidelines for issuing -- the ordinance for

5 issuing permits in the city. Is this something

6 that you're familiar with?

7 A. Yes, sir.

8 Q. Okay. And did you play any role in

9 drafting this or creating it?

10 A. Not the original, no, sir.

11 Q. Okay. Have you played a role in

12 changes to it in the years that you've been

13 chief?

14 A. Yes, sir. We made a modification

15 to the length of how far out you can -- you can

16 apply for a permit, as far as a timing

17 standpoint. I think we reduced that from 30

18 days to 14. And then we changed some language

19 on the type of instruments that you can carry

20 while demonstrating.

21 Q. Okay. And when was the change made

22 from 30 to 15?

23 A. It was in --

24 Q. I thought -- maybe you said -- I

25 meant -- sorry. Did you say 15 or 14?

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1 JEFF MCCUTCHEN

2 A. Maybe July or August. I'm not

3 certain.

4 Q. Okay. And who attended that

5 meeting? Was it a meeting?

6 A. Yes, sir.

7 Q. Who attended?

8 A. I believe our city attorney, Pope

9 Mallette; the sheriff; their attorney, David

10 O'Donnell; and Ray Hawkins, the chief on

11 campus, and his general counsel.

12 Q. Okay. And so one of the things

13 discussed was 30 to 14, right?

14 A. The premise of that meeting was to

15 discuss public safety and having multiple

16 events on one day. Conversations outside of

17 that really spilled over within our own counsel

18 with Pope Mallette and looking at adjustments

19 to adhere to permits.

20 Q. And do you recall what the reason

21 was to reduce the time from 30 to 14?

22 A. Really more of a reasonableness,

23 you know, what time did we need to be able to

24 prepare and staff those events.

25 Q. Okay. And then you -- I think you

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1 JEFF MCCUTCHEN

2 A. I believe it was 14.

3 Q. Okay. 30 to 14, then?

4 A. That would have been in 2020. That

5 would have been this summer.

6 Q. Do you remember when in the summer?

7 A. No, sir. Not specifically.

8 Q. Was that in any way done in

9 conjunction with the County changing their

10 policy to 14?

11 A. Yes, sir. I believe those

12 conversations we had jointly.

13 Q. Were you part of those

14 conversations?

15 A. I was a part of the initial

16 conversation when we met with the university

17 and the County.

18 Q. Okay. So it was a three-way

19 conversation, then?

20 A. Yes, sir. It was -- it was a

21 conversation that we had generalizing, trying

22 to keep information flowing to coordinate our

23 agencies.

24 Q. When in the summer, as best you can

25 recall, did that take place?

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1 JEFF MCCUTCHEN

2 referenced the other change you remember being

3 what you could carry, if I remember that right.

4 A. Yes, sir.

5 Q. So tell me what you mean by that.

6 A. We changed some language on

7 banners, and as far as being able to carry

8 certain sticks or pieces of metal.

9 Q. So you, like, wouldn't want

10 somebody making a poster and putting it on a

11 metal stick, because they could take the poster

12 off and the stick could be a weapon, something

13 like that?

14 A. Yes, sir.

15 Q. How about for flags? Can I carry a

16 flag on a stick?

17 A. Well, that was the discussion of

18 our banner, and from banner to flag. And we

19 cleaned that up so that we were fair across the

20 board.

21 Q. So I -- anything I can carry a

22 banner on, I can carry a flag on?

23 A. No, sir. We -- we basically made

24 it to where if you carry a flag or a banner,

25 you would have to carry it in your hand or a

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2 very small item. Not -- not what we would

3 consider a flag stick.

4 Q. Okay. So I can't -- if I can't

5 carry a banner on a metal stick, I can't carry

6 the American flag on an American -- on a metal

7 stick?

8 A. Yes, sir.

9 Q. Okay. Any other changes you

10 remember making?

11 A. I believe that was it.

12 Q. Okay. How about time of day? Any

13 restrictions in terms of the City issuing

14 permits that are tied to time of day?

15 A. Not specifically.

16 Q. Okay. What do you mean by that?

17 A. Depending on the request, depending

18 on the time of day, where that location would

19 be, if it was a public safety concern, we may

20 have issues in staffing or the ability to keep

21 a demonstration safe.

22 Q. Okay. So at least from the City's

23 perspective, there was no need to have an

24 absolute ban on a permitted event that takes

25 place at night?

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1 JEFF MCCUTCHEN

2 BY MR. YOUNGWOOD:

3 Q. I didn't -- I don't know -- I know

4 there was an objection, but you can still

5 answer.

6 A. No, sir.

7 Q. And, in fact, if we look at Section

8 102-641(b), which is on the third page of

9 Exhibit 1 -- I'm sorry. That's actually not

10 where I want you to look. Hold on. Actually,

11 Section (a). Sorry. Section (a), dead middle,

12 or almost dead middle, says, The speech content

13 of the event shall not be a factor in

14 determining the amount of police protection

15 necessary.

16 A. Where are you at?

17 Q. It's maybe five, six lines down.

18 A. Gotcha.

19 Q. Yeah. The speech content of the

20 event shall not be a factor in determining the

21 amount of police protection necessary.

22 A. Correct.

23 Q. And that is your policy, correct?

24 A. Yes, sir.

25 Q. Okay. There is some provisions

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2 A. No, sir.

3 Q. Okay. It would be subject to the

4 same restrictions and considerations as an

5 event that takes place during the day?

6 A. Yes, sir.

7 Q. Which include what? What are the

8 factors that you consider when deciding whether

9 or not to grant a specific request for a

10 permit?

11 A. You know, it's really -- we just

12 look at time; place; manner; what their needs

13 are, as far as a public safety standpoint; the

14 size; you know, the route. All those are taken

15 into factors.

16 Q. Okay. And you don't take into

17 consideration the message that the individual

18 seeking the permit is hoping to convey,

19 correct?

20 MR. O'DONNELL: Objection.

21 BY MR. YOUNGWOOD:

22 Q. You -- sir --

23 MR. O'DONNELL: You can

24 answer.

25 ///

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2 here in the remainder of that paragraph about

3 payment for additional police protection. Can

4 you tell me about that?

5 A. That would depend on if we brought

6 in additional resources. You know, if it

7 was -- if it was a march or if it was a 5K or

8 things like that and we had to bring in extra

9 staff, there could be -- there could be some --

10 some additional cost to that.

11 Q. Okay. Has that occurred?

12 A. From time to time, yes, sir.

13 Q. And, I guess, help me understand,

14 if you have the ability to bring in extra staff

15 and then charge people for it, what would be

16 the circumstances under which you'd have to

17 deny the permit for inability to provide

18 appropriate police protection?

19 A. I don't know that we've ever denied

20 a permit. Yeah. We -- if -- you know,

21 specifically, say, a 5K and they gave us a

22 route, we would give them how many officers it

23 would take to work those intersections and then

24 what it might cost for them to operate that

25 event.

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2 Q. Okay. And -- and part of that cost

3 might be bringing officers in on overtime duty?

4 A. Yes, sir.

5 Q. And so then it would be a choice

6 whether or not you -- the applicant wants to

7 pay for it or not?

8 A. Yes, sir.

9 Q. Okay. And I take it, then, you've

10 never denied a permit, at least in your

11 experience, that relates to a political event?

12 A. The only time that, again, we look

13 at what our policy says and, you know, did they

14 supply us with a permit in time, that -- that's

15 the only time that I know that we have denied

16 anything.

17 Q. And have you -- okay. So I -- so

18 that includes not denying anything for a

19 political purpose, right?

20 A. Correct.

21 Q. And how about an artistic event?

22 You've not -- do you have any recollection of

23 denying a permit that relates to an artistic

24 event?

25 A. Nothing related --

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2 BY MR. YOUNGWOOD:

3 Q. In terms of the timing and the 14

4 days, when you deny a permit -- well, strike

5 that.

6 Can you recall instances where you

7 have denied permits because they were submitted

8 less than 14 days in advance?

9 A. Yes, sir.

10 Q. Okay. And how about when the rule

11 was 30? Can you recall instances when you

12 denied permits because they were submitted less

13 than 30 days in advance?

14 A. No, sir.

15 Q. Okay. And in terms of the less

16 than 14, is it -- is it that if somebody

17 submits it on the 13th day, that's an automatic

18 denial, or you have some discretion to decide

19 whether you still have enough time to make a

20 decision?

21 A. Yes, sir. I mean, it's a lot in do

22 we have time to plan, you know, what is

23 happening in that moment; what are our staffing

24 needs. And, again, we typically work with

25 those individuals for a secondary date, if it's

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2 MR. O'DONNELL: Objection to

3 form.

4 A. -- to content.

5 Q. Okay. In terms --

6 (Court reporter

7 clarification.)

8 MR. O'DONNELL: Yeah. There

9 was an objection to form.

10 A. We have not denied one on content.

11 MR. O'DONNELL: Yeah. John,

12 we talk a little slower in

13 Mississippi than you do. So --

14 MR. YOUNGWOOD: We -- we

15 think a little slower in New York.

16 Or what I should say is we talk

17 without thinking.

18 MR. O'DONNELL: No comment.

19 MR. YOUNGWOOD: Yeah. I

20 don't think we're the only ones in

21 the world who do that. But. . .

22 MR. O'DONNELL: Good point.

23 MR. YOUNGWOOD: Yeah. Some

24 world.

25 ///

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2 feasible.

3 Q. Okay. And in terms of denying

4 requests made less than 14 days, can you recall

5 such instances in the last year?

6 A. Yes, sir.

7 Q. Okay. Tell me what you recall.

8 A. There was a request that came in

9 the week before Halloween for a parade, like a

10 vehicle -- a vehicle parade the night of

11 Halloween, and the route that they requested,

12 which is a high-traffic area for pedestrians --

13 again, it was submitted less than 14 days. We

14 already had resources allocated for the

15 Halloween events and pedestrian traffic, which

16 we denied that permit on the grounds of not

17 getting it in in time.

18 Q. Okay. And what was the reaction to

19 that denial? Did you -- I guess it's hard to

20 work out another date if it's for Halloween.

21 A. Again, we denied it. We gave them

22 some options, and they chose not to participate

23 in a formalized parade.

24 Q. Okay. You've granted permits for

25 nighttime use, correct?

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2 A. Yes, sir.

3 MR. O'DONNELL: Hey, John,

4 would this be a good moment to take

5 five minutes?

6 MR. YOUNGWOOD: Absolutely.

7 That's perfect.

8 MR. O'DONNELL: Okay.

9 THE VIDEOGRAPHER: All

10 right. We are going off the

11 record. The time is 10:15 a.m.

12 (Recess from 10:15 a.m. to

13 10:23 a.m.)

14 THE VIDEOGRAPHER: We are

15 back on the record. The time is

16 10:23 a.m.

17 BY MR. YOUNGWOOD:

18 Q. Chief, just a question or two more

19 on Exhibit 1. If I look at Section 102-638(b),

20 there's the reference to the 30 days.

21 A. Yes, sir.

22 Q. Okay. And you're saying that's now

23 14, if -- correct?

24 A. Yes, sir.

25 Q. And do you know if that change has

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2 within a set of the City's ordinances?

3 A. No, sir.

4 Q. Okay. I want to ask you a little

5 bit about some specific permits. If we go to

6 tab 28, which we'll mark as Exhibit 28, please.

7 (Exhibit 28 was marked for

8 identification.)

9 BY MR. YOUNGWOOD:

10 Q. So this is a two-page document,

11 which has, at the top, Oxford Police

12 Department, and then it has a heading, Special

13 Event, Parade, or Public Assembly Permit. Is

14 this the form for the permit application?

15 A. Yes, sir.

16 Q. Okay. It still says -- this is

17 dated in this past year, although it still says

18 Chief East on the top. The form just hasn't

19 been updated to include your name yet?

20 A. That's right.

21 Q. Okay. This is an application.

22 This version doesn't seem to be signed by you

23 or anyone else under "permit approved by."

24 Would, in the normal course, you have to sign

25 the permit for it to be approved, or could it

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2 been memorialized in writing?

3 A. I am not certain on that. That

4 would go through the city clerk's office.

5 Q. Okay. So how do you know that the

6 policy has been changed to -- to 30? I'm

7 sorry.

8 A. That --

9 Q. 14. 14.

10 A. That was the discussion we had in

11 an open board meeting.

12 Q. Open board meeting of the city

13 council?

14 A. Yes, sir.

15 Q. Okay. And in terms of the changes

16 that relate to the sticks or other items that

17 can be part of a permitted event, is that

18 something that's memorialized somewhere?

19 A. Yes, sir.

20 Q. And, again, because you're

21 recalling the discussion at the city council

22 meeting?

23 A. Yes, sir.

24 Q. Okay. Other than that, are you

25 aware of a written change that's included

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2 be approved without -- does your signature mean

3 approval, or might it be approved and still not

4 have your signature?

5 A. Typically, I sign them and send

6 them back to city hall. But there could be an

7 instance where, you know, it's a conversation,

8 or that it's -- this event could have been

9 blessed where I didn't sign it, and I took it

10 to the city council for approval.

11 Q. Okay. Do you remember this

12 specific event? It's on Saturday, August 8,

13 2020, applicant is Visit Oxford. It's an Arts

14 Council projection.

15 A. Yes, sir.

16 Q. It says -- and it says on the

17 bottom of the page, first page, type event,

18 Arts Council projection of artwork accompanied

19 by acoustic musician.

20 Do you see that?

21 A. Yes, sir.

22 Q. And the time is 5:00 to 7:30 in the

23 evening?

24 A. Yes, sir.

25 Q. Okay. The location is city hall

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2 plaza. And what's the relationship of city

3 hall plaza to the town square?

4 A. That would be in between city hall,

5 the building, and then Square Books, Jr.

6 There's an opening there, which sometimes we

7 reference to the RSVP platform.

8 Q. Okay. Was this event approved?

9 A. I believe so.

10 Q. Yeah. I believe it was, too, which

11 is why I'm asking why it --

12 (Simultaneous speakers.)

13 A. I believe so. We -- we had a

14 series of these type of events from potentially

15 late July all the way through December. So I

16 would assume it was.

17 Q. Okay. And this event, you don't

18 recall any -- any violence associated with it,

19 do you?

20 A. No, sir.

21 Q. Okay. And you said a series of

22 similar events. What do you mean by "similar"?

23 A. Visit Oxford applied for multiple

24 days during the fall, and those events

25 typically had something to do with music or

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2 Do you see that?

3 A. Yes, sir.

4 Q. And all of them for time periods

5 from 10:00 a.m. to 10:00 p.m. in the evening?

6 A. Yes, sir.

7 Q. And, again, these don't seem to

8 have signatures indicating approval. But to

9 your recollection, were most or all of these

10 approved?

11 A. Yes, sir. And I believe they were

12 all introduced at the city council.

13 Q. What do you mean by "introduced"?

14 A. Submitted for approval.

15 Q. So the city council can approve

16 this or -- yeah. Well, help me on that. Who

17 can approve the permits?

18 A. I can approve the permits, but I

19 will present some to the city council to make

20 sure they are aware.

21 Q. I see. And with the Visit Oxford

22 ones, you think you did that?

23 A. Yes, sir.

24 Q. Okay. And, again, these all ended

25 up being peaceful events, correct?

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2 demo- -- not demonstrations, but events that

3 were happening on that location, smaller-

4 scale-type events.

5 Q. Okay. And no violence associated

6 with any of those in 2020, that you can recall,

7 right?

8 A. No, sir.

9 Q. Any -- any, even short of violence,

10 security concerns associated with any of those

11 events?

12 A. No, sir.

13 Q. And included within those events

14 such as this one were events in the evening,

15 correct?

16 A. Yes, sir.

17 Q. You said there was a series. If we

18 turn to tab 31, which we'll mark as Exhibit 31.

19 (Exhibit 31 was marked for

20 identification.)

21 BY MR. YOUNGWOOD:

22 Q. You can flip through these if you

23 want, but they all appear to be Visit Oxford

24 events and, I think, all of them occurring on

25 Friday and Saturdays.

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2 A. Yes, sir.

3 Q. And at least some of them extended

4 into the evening, correct?

5 A. Yes, sir.

6 Q. Okay. Let me ask you to turn to

7 tab 33, which we'll mark as Exhibit 33.

8 (Exhibit 33 was marked for

9 identification.)

10 BY MR. YOUNGWOOD:

11 Q. This is an application from

12 somebody named Wayne Andrews. And this also

13 refers to being a projection film screening

14 event.

15 Do you see that?

16 A. Yes, sir.

17 Q. Do you recall whether or not this

18 event was approved?

19 A. It was.

20 Q. Okay. And it took place?

21 A. Sir?

22 Q. It took -- it did take place? It

23 was approved and the event happened?

24 A. I believe so, yes, sir.

25 Q. Okay. And it was an event that

<p style="text-align: right;">Page 82</p> <p>1 JEFF MCCUTCHEN</p> <p>2 involved projections in the evening?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Okay. Any security or safety or</p> <p>5 violence associated with it that you recall?</p> <p>6 A. No, sir.</p> <p>7 Q. Okay. If you could take a look at</p> <p>8 tab 9, which we'll mark as Exhibit 9.</p> <p>9 (Exhibit 9 was marked for</p> <p>10 identification.)</p> <p>11 BY MR. YOUNGWOOD:</p> <p>12 Q. And then look at tab 16, which</p> <p>13 we'll mark as Exhibit 16.</p> <p>14 (Exhibit 16 was marked for</p> <p>15 identification.)</p> <p>16 BY MR. YOUNGWOOD:</p> <p>17 Q. My question is, is -- the one</p> <p>18 that's labeled 9 has the title, Special Event,</p> <p>19 Parade, or Public Assembly Permit. And then if</p> <p>20 you look at 16 --</p> <p>21 (Court reporter</p> <p>22 clarification.)</p> <p>23 BY MR. YOUNGWOOD:</p> <p>24 Q. Special Event, Parade, or Public</p> <p>25 Assembly Permit. And then if you go to 16, it</p>	<p style="text-align: right;">Page 83</p> <p>1 JEFF MCCUTCHEN</p> <p>2 says, Event Permit Application.</p> <p>3 My question is: Is there a</p> <p>4 difference between the two types of</p> <p>5 applications?</p> <p>6 A. No, sir. I believe there was two</p> <p>7 different forms with the same information but</p> <p>8 different language, whether that was on the</p> <p>9 city website or the city clerk's office versus</p> <p>10 what we had on file.</p> <p>11 Q. I see. Okay. So same purpose,</p> <p>12 same criteria in approving or disapproving</p> <p>13 them?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Okay. And it does look like, by</p> <p>16 the way, 9, your -- your name is on it. Maybe</p> <p>17 some of the other is people just had old</p> <p>18 versions or something?</p> <p>19 A. Yes, sir.</p> <p>20 (Technical discussion.)</p> <p>21 MR. YOUNGWOOD: Okay. Let's</p> <p>22 actually add tab 8, Exhibit 8,</p> <p>23 please.</p> <p>24 (Exhibit 8 was marked for</p> <p>25 identification.)</p>
<p style="text-align: right;">Page 84</p> <p>1 JEFF MCCUTCHEN</p> <p>2 BY MR. YOUNGWOOD:</p> <p>3 Q. If you could turn there, Chief.</p> <p>4 There's a collection of documents in here. I'd</p> <p>5 actually like to refer you to the fifth page of</p> <p>6 the document. They're not numbered as such.</p> <p>7 You'll just have to count to the fifth page.</p> <p>8 Tell me when you're there. It says</p> <p>9 on the top City of Oxford Event Permit</p> <p>10 Application, and it has the date, December 3rd,</p> <p>11 2019.</p> <p>12 MR. MALLETT: John, this is</p> <p>13 Pope. Are you talking about the</p> <p>14 one that has the date stamp</p> <p>15 December 3, 2019?</p> <p>16 MR. YOUNGWOOD: Exactly.</p> <p>17 MR. MALLETT: Okay. Got it.</p> <p>18 MR. YOUNGWOOD: I don't know</p> <p>19 if yours came through in color, but</p> <p>20 December 3 is in red on mine.</p> <p>21 MR. MALLETT: Okay.</p> <p>22 BY MR. YOUNGWOOD:</p> <p>23 Q. So this form looks a little</p> <p>24 different. And the thing I want to draw your</p> <p>25 attention to is it says, Application must be</p>	<p style="text-align: right;">Page 85</p> <p>1 JEFF MCCUTCHEN</p> <p>2 submitted at least five working days prior to</p> <p>3 the event.</p> <p>4 Do you see that?</p> <p>5 A. Yes, sir.</p> <p>6 Q. So how does that overlap with the</p> <p>7 30-day-in-advance requirement and the</p> <p>8 14-day-in-advance requirement that we discussed</p> <p>9 earlier?</p> <p>10 A. This is an event that the</p> <p>11 organizers want to serve alcohol.</p> <p>12 Q. Okay. And that requires a</p> <p>13 different notice period?</p> <p>14 A. Yes, sir.</p> <p>15 Q. But it seems to require a shorter</p> <p>16 notice period, not a longer notice period.</p> <p>17 A. This one is going to be something</p> <p>18 that we coordinate with our code office and</p> <p>19 ABC. So they -- they have to file information</p> <p>20 about the event. And, again, we've got to loop</p> <p>21 in some other jurisdictions with that.</p> <p>22 Q. I hear you. But wouldn't that</p> <p>23 suggest that there should be a longer</p> <p>24 requirement than if you're not serving alcohol,</p> <p>25 not a shorter requirement?</p>

<p style="text-align: right;">Page 86</p> <p>1 JEFF MCCUTCHEN</p> <p>2 A. It's essentially set up so that it</p> <p>3 gives us notice to be able to let ABC -- or</p> <p>4 just go by and check them. It could be on a</p> <p>5 private property or an event that's enclosed to</p> <p>6 a specific group.</p> <p>7 Q. Okay.</p> <p>8 MR. MALLETT: Hey, Jonathan,</p> <p>9 to the extent that you are</p> <p>10 questioning this as if it were a</p> <p>11 regular event permit, I'm going to</p> <p>12 object to the form. And I'm not</p> <p>13 trying to be prickly, but this is</p> <p>14 an alcohol permit, rather than</p> <p>15 assembly or parade permit. It's a</p> <p>16 different permit. It may be</p> <p>17 required as a subset to a march or</p> <p>18 assembly, but it's an alcohol</p> <p>19 permit, not a parade or assembly</p> <p>20 permit. And I'm sorry. I don't</p> <p>21 mean to testify, but it's a --</p> <p>22 MR. YOUNGWOOD: No. I'm not</p> <p>23 trying to be clever. I -- you've</p> <p>24 actually explained it to me. I --</p> <p>25 I understand it. Let me try to see</p>	<p style="text-align: right;">Page 87</p> <p>1 JEFF MCCUTCHEN</p> <p>2 if I can get the witness to clarify</p> <p>3 it so that we have it clear.</p> <p>4 BY MR. YOUNGWOOD:</p> <p>5 Q. Is this an additional application</p> <p>6 one would have to make if you're going to serve</p> <p>7 alcohol for an event?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Okay. So if I wanted to have an</p> <p>10 event in the town square, I would still need to</p> <p>11 comply with the permit procedure that we've</p> <p>12 been discussing up to now that at one point</p> <p>13 required 30 days and more recently requires 14</p> <p>14 days; is that right?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And then if I wanted to serve</p> <p>17 alcohol, I'd also have to complete this form?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Okay. But the five days that's</p> <p>20 contained within here, that is sufficient time</p> <p>21 to process the additional requirements</p> <p>22 associated with having an event have alcohol,</p> <p>23 correct?</p> <p>24 MR. MALLETT: Object to the</p> <p>25 form.</p>
<p style="text-align: right;">Page 88</p> <p>1 JEFF MCCUTCHEN</p> <p>2 MR. O'DONNELL: I'll join</p> <p>3 that objection.</p> <p>4 A. Can you ask the question again,</p> <p>5 sir?</p> <p>6 Q. The five days here, that's</p> <p>7 sufficient time to carry out whatever approvals</p> <p>8 you need to seek for an event to have alcohol?</p> <p>9 MR. MALLETT: Object to the</p> <p>10 form.</p> <p>11 MR. O'DONNELL: Same -- same</p> <p>12 objection.</p> <p>13 A. Yes, sir.</p> <p>14 MR. YOUNGWOOD: Okay. Let's</p> <p>15 go to tab 2, which we'll mark as</p> <p>16 Exhibit 2.</p> <p>17 (Exhibit 2 was marked for</p> <p>18 identification.)</p> <p>19 BY MR. YOUNGWOOD:</p> <p>20 Q. So is this a document you're</p> <p>21 familiar with, sir?</p> <p>22 A. No, sir.</p> <p>23 Q. Okay. Independent of the document,</p> <p>24 are you aware of the County's policy regarding</p> <p>25 the use of its facilities?</p>	<p style="text-align: right;">Page 89</p> <p>1 JEFF MCCUTCHEN</p> <p>2 A. No, sir.</p> <p>3 Q. You are consulted from time to</p> <p>4 time -- we touched on this briefly at the</p> <p>5 beginning -- by -- with Sher- -- or let me ask</p> <p>6 this better.</p> <p>7 Sheriff East, from time to time,</p> <p>8 will consult with your office regarding the</p> <p>9 issuance of permits for the use of county</p> <p>10 facilities, correct?</p> <p>11 A. No, sir. Not with issuing of a</p> <p>12 permit. He may notify us that they have one,</p> <p>13 but not that I would make any suggestions on</p> <p>14 approving or disapproving.</p> <p>15 Q. Okay. Does he notify you or does</p> <p>16 he contact somebody else? What's the line of</p> <p>17 communication?</p> <p>18 A. It's typically me.</p> <p>19 Q. Okay. And is he notifying you that</p> <p>20 he has an application, or is he notifying you</p> <p>21 that he's -- that they've granted a permit and</p> <p>22 they have an event?</p> <p>23 A. It could be both. If there's a</p> <p>24 permit submitted to him, he may contact us to</p> <p>25 ask do we have an event that day or adequate</p>

<p style="text-align: right;">Page 90</p> <p>1 JEFF MCCUTCHEN</p> <p>2 staff available if the permit is granted.</p> <p>3 Q. Okay.</p> <p>4 A. And then after the event is</p> <p>5 scheduled, if he needs additional assistance,</p> <p>6 he would reach out.</p> <p>7 Q. Okay. And, again, you can't recall</p> <p>8 any instance where you've denied him that</p> <p>9 assistance?</p> <p>10 A. No, sir.</p> <p>11 Q. So we looked at tab 2. If you turn</p> <p>12 to tab 6, which we'll mark as Exhibit 6.</p> <p>13 (Exhibit 6 was marked for</p> <p>14 identification.)</p> <p>15 BY MR. YOUNGWOOD:</p> <p>16 Q. I -- I take it from your prior</p> <p>17 answer, you also haven't seen this document?</p> <p>18 A. No, sir.</p> <p>19 Q. If you turn to tab 11, which we'll</p> <p>20 mark as Exhibit 11.</p> <p>21 (Exhibit 11 was marked for</p> <p>22 identification.)</p> <p>23 BY MR. YOUNGWOOD:</p> <p>24 Q. Have you seen this document before?</p> <p>25 A. No, sir.</p>	<p style="text-align: right;">Page 91</p> <p>1 JEFF MCCUTCHEN</p> <p>2 Q. Okay. Are you aware of the</p> <p>3 specific policies that the County adopted in</p> <p>4 2020 relating to the use of the courthouse</p> <p>5 grounds?</p> <p>6 A. In conversation.</p> <p>7 Q. Tell me what -- who was that</p> <p>8 conversation with?</p> <p>9 A. With the sheriff.</p> <p>10 Q. And when was that conversation?</p> <p>11 A. It would have been throughout the</p> <p>12 summer as pertaining to this.</p> <p>13 Q. I'm sorry. What does "pertaining</p> <p>14 to this" mean?</p> <p>15 A. Well, you're asking about this</p> <p>16 document, specifically speaking of allowing</p> <p>17 four or more people?</p> <p>18 Q. Yeah.</p> <p>19 A. That would have been a conversation</p> <p>20 we had this summer.</p> <p>21 Q. Okay. Tell me about that</p> <p>22 conversation.</p> <p>23 A. Essentially, he notified us of this</p> <p>24 policy coming into play. And that way, if our</p> <p>25 officers encountered more than what the policy</p>
<p style="text-align: right;">Page 92</p> <p>1 JEFF MCCUTCHEN</p> <p>2 allowed, we would contact his office if we saw</p> <p>3 it.</p> <p>4 Q. Okay. Did he tell you -- let's</p> <p>5 just focus on the "four people" part. Did he</p> <p>6 give you the rationale for the four people</p> <p>7 limitation?</p> <p>8 A. Maybe. I mean, we talked about</p> <p>9 logistics of his office and ability to monitor</p> <p>10 that area, the lack of the staff that they</p> <p>11 have, and the wide range of mileage that they</p> <p>12 cover as an agency.</p> <p>13 Q. Okay. But what does that have to</p> <p>14 do with four people being on the courthouse</p> <p>15 grounds?</p> <p>16 A. Those conversations, sir, I'm not</p> <p>17 sure of.</p> <p>18 Q. You're not recalling them clearly?</p> <p>19 A. Yes, sir. I don't know that I was</p> <p>20 involved in those conversations of how they</p> <p>21 came up with the number four.</p> <p>22 Q. No. And I appreciate you weren't</p> <p>23 involved in the decision. I'm wondering if,</p> <p>24 during your conversations with Sheriff East, he</p> <p>25 gave you a rationale for the decision, if he</p>	<p style="text-align: right;">Page 93</p> <p>1 JEFF MCCUTCHEN</p> <p>2 told you we've changed it -- we've done this</p> <p>3 because?</p> <p>4 A. No. Not that I know of.</p> <p>5 Q. Okay. But he did -- he wanted to</p> <p>6 inform you and let you know that there was now</p> <p>7 this four-person restriction, right?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Okay. And do you remember when he</p> <p>10 informed you of that?</p> <p>11 A. It would have been sometime during</p> <p>12 the summer.</p> <p>13 Q. Okay. So this document's dated the</p> <p>14 15th of June. Sometime presumably after the</p> <p>15 15th of June?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Okay. And -- and since being</p> <p>18 informed of that, have -- have you or your</p> <p>19 officers noticed violations of this "no more</p> <p>20 than four without a permit" policy on the</p> <p>21 courthouse grounds?</p> <p>22 A. We have.</p> <p>23 Q. And on what occasions?</p> <p>24 A. Dates, I don't have in front of me.</p> <p>25 But there -- there were time to -- times that</p>

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2 our agency would see -- I mean, we would notify

3 them if it was even two, just to give them a

4 heads-up to make sure they knew. But there

5 were times where there were more.

6 Q. Okay. Well, let me -- when you say

7 there were two, I mean -- we can go back to the

8 pictures if it's helpful. The courthouse

9 grounds have benches and open space, correct?

10 A. Yes, sir.

11 Q. And the low fence with gaps in it

12 to allow access, right?

13 A. Yes, sir.

14 Q. So at any given time -- let's start

15 during the day -- I mean, wouldn't there be

16 groups of two or more on the courthouse

17 grounds?

18 A. Yes, sir. And I apologize. I was

19 specifically meaning after hours.

20 Q. Okay. Okay. So if you saw five

21 people having lunch together on the courthouse

22 grounds during the day, would you inform

23 Sheriff East's agency about that?

24 A. No, sir.

25 Q. Okay. Why not?

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1 JEFF MCCUTCHEN

2 a call. If you saw a group of five at noon on

3 Saturday, your deputies might give a call?

4 A. Yes, sir.

5 Q. Is that tracked in some way, giving

6 a call that a certain number of people are on

7 the courthouse grounds? Or is the call just

8 made, and there's no record?

9 A. It's probably a phone call. And,

10 again, that may be notified from my staff to --

11 for me to call him, or it could be one of our

12 staff members contacting their on-duty

13 supervisor.

14 Q. Okay. So -- so it's your

15 understanding that five people congregating on

16 the courthouse grounds during the day is a

17 violation of County policy?

18 MR. O'DONNELL: Object to

19 form.

20 A. No. That's not my understanding.

21 I know that that business -- that -- that

22 operates as a business and a courthouse. So

23 there would be more people coming and going

24 throughout the day.

25 Q. Okay. But how about on a weekend?

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2 A. Typically, during the daytime, his

3 staff is in and out of that area equally. He's

4 got more staff during the daytime, and they

5 were able to monitor that better than after

6 hours.

7 Q. Okay. Why does he have more staff

8 around the courthouse during the daytime than

9 at night, if you know?

10 A. They manage the courthouse, and so

11 there are court proceedings happening

12 throughout the day. He's got detectives that

13 are out, more personnel that are out

14 specifically during the daytime. Generally,

15 it's deputies that are working the road at

16 night is all that they have.

17 Q. Okay. Well, how about on a

18 Saturday?

19 A. I would assume Saturday would be

20 specifically just the deputies that are working

21 the road. So if we noticed that there were

22 multiple people up there, we would generally

23 give them a call.

24 Q. Okay. So if you saw a group of

25 five on a Wednesday at noon, you wouldn't give

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1 JEFF MCCUTCHEN

2 Five people standing there having a picnic on

3 the lawn on a weekend. Is that a -- your

4 understanding, a violation of County policy?

5 A. I don't know that they deem it as a

6 violation, and that's why we directly report it

7 to them.

8 Q. Okay. And are you aware of them

9 taking any actions with respect to the people

10 gathering in response to any of the calls that

11 your office has made to them?

12 A. I don't know of anything

13 specifically that they've done. I do know that

14 we have notified them of multiple people there,

15 and their office handles that. Whether that's

16 removal or giving them additional options, I

17 wouldn't know.

18 Q. Okay. And do you have safety

19 concerns associated with more than four people

20 gathering on the courthouse grounds?

21 A. It all depends: time of day,

22 what's going on, traffic patterns. Again,

23 that's -- we'll try to manage the street and

24 everything adjacent to that, and we give them

25 the call on how they determine safety on their

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2 grounds.

3 Q. So -- so it's possible for five

4 people to gather on the courthouse grounds and

5 for it to be perfectly safe?

6 A. It's possible.

7 Q. Okay. And it's possible for five

8 people to gather on the courthouse grounds

9 after dark and it be perfectly safe, correct?

10 A. It's possible.

11 MR. O'DONNELL: Object to

12 form.

13 BY MR. YOUNGWOOD:

14 Q. And in both circumstances, day or

15 night, it depends on all the other

16 circumstances, correct?

17 A. Yes, sir.

18 MR. YOUNGWOOD: Okay. Go to

19 27, please.

20 BY MR. YOUNGWOOD:

21 Q. Have you seen -- which we'll mark

22 as Exhibit 27. Tab 27 is Exhibit 27. Have you

23 ever seen this document before?

24 (Exhibit 27 was marked for

25 identification.)

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2 gain any understanding as to why these various

3 policy changes were being applied to the

4 courthouse grounds, as opposed to all county

5 property?

6 A. Yes, sir. Mostly around the

7 ability to provide security there. Again, I'm

8 not sure how many deputies they run, but it's

9 600-and-some-odd square miles, and I'm assuming

10 six to eight deputies. So response time and

11 the ability to monitor that is definitely

12 different for them than for us.

13 Q. What is different about the

14 courthouse for them, as opposed to any other

15 small plot of land within the county?

16 A. I'm not sure, unless it's, you

17 know, that being centrally located in the city

18 and coming through the city limits, slowing

19 them down as far as a response time versus a

20 piece of property in the county with open road.

21 Q. But there are -- you testified

22 earlier, there are other -- there's other

23 parcels of county property within the city,

24 right?

25 A. Yes, sir.

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2 A. No, sir.

3 Q. Okay. Were you aware -- well, you

4 testified earlier that the -- you became aware

5 that the approval time period for the permit

6 associating -- associated with the use of the

7 courthouse grounds changed from 30 days to 14,

8 right?

9 A. Yes, sir.

10 Q. Were -- well, let me actually -- I

11 don't mean to have led you in that way.

12 When you became aware of the change

13 in 30 to 14, what policy did you think was

14 changing?

15 A. I would assume it was very similar

16 to the same policy that we had, as far as

17 accepting a permit.

18 Q. Did you -- and did you understand

19 it to be a countywide policy or only a policy

20 limited to the courthouse grounds and the

21 statue?

22 A. I didn't get any -- it didn't get

23 into any specifics on that.

24 Q. Okay. Did you, in your

25 conversations with Sheriff East last summer,

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2 Q. Would the rationale be any

3 different for them in terms of the sheriff's

4 office's access to them than it would be for

5 the courthouse grounds?

6 A. I'm not certain.

7 Q. And your conversations with -- with

8 Sheriff East concerning changes in policies to

9 the courthouse grounds and the area approximate

10 to the statue touch on any of the political

11 movements that were exhibited this summer of

12 2020?

13 A. No, sir. Again, I think they were

14 following a very similar policy that we were.

15 We were trying to, you know, give our citizens,

16 you know -- not different standards,

17 essentially.

18 Q. By "not different standards," you

19 mean that the City and the County wanted to

20 have the same standard?

21 A. From a timing standpoint as to when

22 to get your permit in.

23 Q. Okay. But in terms of the focus of

24 the County's changes in policy on the

25 courthouse, did the subject, for example, of

<p style="text-align: right;">Page 102</p> <p>1 JEFF MCCUTCHEN</p> <p>2 Black Lives Matter come up?</p> <p>3 A. No, sir.</p> <p>4 Q. Or the Confederate marches or</p> <p>5 events? Did they -- did that come up in your</p> <p>6 conversations with Sheriff East?</p> <p>7 A. About why they changed their --</p> <p>8 their timing?</p> <p>9 Q. Yes.</p> <p>10 A. No, sir.</p> <p>11 Q. Okay. Or there's a -- there's a --</p> <p>12 I understand, a group of citizens who would</p> <p>13 like to take down the Confederate statue,</p> <p>14 correct, or move it? Take it down or move it,</p> <p>15 right?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Did that come up in connection with</p> <p>18 any of the conversations that you had with</p> <p>19 Sheriff East regarding changes to the</p> <p>20 courthouse grounds policy?</p> <p>21 A. No, sir.</p> <p>22 Q. Okay. Did you also become aware,</p> <p>23 over the summer, from Sheriff East or</p> <p>24 otherwise, that the County had made a change to</p> <p>25 its courthouse grounds policy so as to prohibit</p>	<p style="text-align: right;">Page 103</p> <p>1 JEFF MCCUTCHEN</p> <p>2 the issuance of any permits for time periods</p> <p>3 starting 30 minutes before dusk?</p> <p>4 A. I think once they enacted that in</p> <p>5 their county, then we were notified.</p> <p>6 Q. Were you -- by Sheriff East?</p> <p>7 A. Yes, sir.</p> <p>8 Q. So you were notified by</p> <p>9 Sheriff East?</p> <p>10 A. Once they changed this policy, yes,</p> <p>11 sir.</p> <p>12 Q. Okay. And you were not consulted</p> <p>13 on whether or not the policy should change in</p> <p>14 that manner, I assume?</p> <p>15 A. I don't believe so.</p> <p>16 Q. Okay. Did Sheriff East tell you</p> <p>17 the rationale for changing the policy so as to</p> <p>18 preclude the use of the courthouse grounds</p> <p>19 starting 30 minutes before dusk?</p> <p>20 A. Yes, sir. Again, you know, back to</p> <p>21 the safety -- the public safety, being able to</p> <p>22 provide security to that from a staffing need</p> <p>23 and in a response-time need.</p> <p>24 Q. Did he provide any instances to you</p> <p>25 in which he was unable to provide security</p>
<p style="text-align: right;">Page 104</p> <p>1 JEFF MCCUTCHEN</p> <p>2 relating to the courthouse grounds after --</p> <p>3 starting 30 minutes before dusk?</p> <p>4 A. Are you asking did he provide me</p> <p>5 any data?</p> <p>6 Q. Any -- any overall data or -- or</p> <p>7 reference to a specific incident.</p> <p>8 A. We've had several incidents -- and</p> <p>9 I don't have any dates in front of me -- where</p> <p>10 our staff responded or intercepted disturbances</p> <p>11 there. And if it's in -- after normal working</p> <p>12 hours, I mean, you could potentially look at a</p> <p>13 15- to 40-minute window before they could</p> <p>14 respond. So I know we've had those</p> <p>15 conversations.</p> <p>16 Q. Okay. And you can't remember a</p> <p>17 specific incident?</p> <p>18 A. No, sir. Those would be things --</p> <p>19 you know, potentially look back on in our</p> <p>20 system. But it has happened from time to time.</p> <p>21 Q. But you've had incidents elsewhere</p> <p>22 in the city at night from time to time, right?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Okay. In fact, most of your</p> <p>25 incidents take place elsewhere in the city at</p>	<p style="text-align: right;">Page 105</p> <p>1 JEFF MCCUTCHEN</p> <p>2 night, right?</p> <p>3 MR. O'DONNELL: Object to</p> <p>4 form.</p> <p>5 A. When you -- when you're saying</p> <p>6 "most incidents," what are you referencing to?</p> <p>7 Q. Well, in the downtown area, most of</p> <p>8 them take place at night, right? I think you</p> <p>9 said that before.</p> <p>10 MR. O'DONNELL: Same</p> <p>11 objection.</p> <p>12 A. Yes, sir.</p> <p>13 Q. When is dusk?</p> <p>14 A. 30 minutes before sunset.</p> <p>15 Q. So dusk is 30 minutes before</p> <p>16 sunset?</p> <p>17 A. That's my understanding.</p> <p>18 Q. Okay. So 30 minutes before dusk</p> <p>19 would be an hour before sunset, then?</p> <p>20 A. I guess so.</p> <p>21 Q. Okay. And by definition, sunset</p> <p>22 would change based on the day of the year,</p> <p>23 right?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Is it the time of day -- let's not</p>

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2 talk about the courthouse for a second. Let's

3 talk about incidents related to people

4 gathering, you know, near and around bars and

5 restaurants -- okay -- which you've discussed

6 take place in the downtown area.

7 Is it the time of day that

8 increases the likelihood of an incident

9 regarding -- requiring police involvement, or

10 is it the amount of light in the sky?

11 A. You know, I think it's a -- it's a

12 lot of factors. It's -- it's the time of the

13 day; it's where it's located at; it's how large

14 the gathering is. I think it's many factors.

15 Q. Okay. How about whether or not

16 it's a sunny day or a cloudy day? Cloudy days

17 are darker than sunny days.

18 A. You know, sometimes rain lowers our

19 crowd, but, again, I think it goes back to all

20 those factors.

21 Q. Okay. At least in big cities where

22 I live, you know, summer heat can increase

23 incidents. Is that -- so is heat, temperature,

24 something that plays a role in whether or not

25 an incident is likely to take place?

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2 limitation elsewhere within the city?

3 A. We had some general discussions

4 with our attorney. And, again, it depended

5 on --

6 Q. I don't -- I don't -- I don't -- if

7 it's a direct conversation with Mr. Mallette or

8 another attorney, I don't need you to tell me

9 that. So if that's the only way to answer the

10 question, perhaps I'll ask you to stop. But I

11 would like to get the information, but I don't

12 want to violate your --

13 MR. MALLETT: John --

14 BY MR. YOUNGWOOD:

15 Q. -- with your attorney.

16 MR. MALLETT: Counselor,

17 this is Pope Mallette. I don't

18 object to you asking him how our

19 policy is formed, as long as he's

20 not quoting --

21 MR. YOUNGWOOD: Yes.

22 BY MR. YOUNGWOOD:

23 Q. So maybe if you -- if you're able

24 to answer what you know about the policy, as

25 opposed to what you were told, which I know is

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2 A. It can.

3 Q. Okay. It's not just the setting of

4 the sun; fair to say?

5 A. Yes, sir.

6 Q. Okay. Was there any discussion

7 with Sheriff East when you were informed that

8 the City had -- sorry. Strike that. Was there

9 any discussion with Sheriff East when you were

10 informed that the County had adopted a 30-

11 minutes-before-dusk policy with respect to the

12 courthouse grounds of a desire to see the City

13 institute a similar policy for areas of the

14 city?

15 A. Not that I'm aware of.

16 Q. So there was a desire to make the

17 14 days correspond, but not a desire to make

18 the time-of-day aspect of the policy

19 correspond?

20 A. I don't know that we discussed

21 that.

22 Q. Okay. How about the four-person

23 requirement that's in the County policy with

24 respect to the courthouse grounds? Any -- any

25 effort to impose a four-person gathering

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1 JEFF MCCUTCHEN

2 a -- sounds a little artificial, but I don't

3 want to violate your relationship with your

4 attorney.

5 A. And -- and you're asking about the

6 County policy, correct?

7 Q. Yeah. Well, I'm -- you've kind of

8 told me that -- that one of the things going on

9 is the County was changing their policy from 30

10 to 14, so maybe the city changes it from 30 to

11 14. You told me about the poles and sticks at

12 the rallies or events -- I don't mean that

13 they're just rallies -- and -- and that you

14 wanted to have similar policies on these

15 things. I just asked you about the after dusk,

16 which it sounds like there's no such policy in

17 the city, correct?

18 A. Correct.

19 Q. And there's no policy in the city

20 that puts special attention on gatherings of

21 more than four people, right?

22 A. Correct.

23 Q. And so now my question is: With

24 respect to the gatherings of more people, do

25 you know why the City doesn't have limitations

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1 JEFF MCCUTCHEN

2 on gatherings of more than four people?

3 A. I don't know specifically on why

4 we -- we don't have a number on that. Again,

5 our staffing is different than that of the

6 County, and our ability to respond to those

7 areas are a little bit different.

8 Q. Okay. Let me start going through a

9 few documents and ask you some specific

10 questions on -- on those. But we'll try and

11 move quickly. Go to tab 13, which we'll mark

12 as Exhibit 13.

13 (Exhibit 13 was marked for

14 identification.)

15 BY MR. YOUNGWOOD:

16 Q. This is an email from somebody

17 named Anne Barrett, and I believe you're one of

18 the recipients of the email, if you look on the

19 email addresses.

20 A. Yes, sir.

21 Q. Okay. Do you remember this email

22 and the attachment that I think comes from a

23 social media post by somebody named Tim Warren?

24 A. Yes, sir.

25 Q. What do you remember about this?

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1 JEFF MCCUTCHEN

2 Q. Did you have any involvement in

3 granting that permit?

4 A. No, sir.

5 Q. Okay. Did you have any involvement

6 in policing the event that he held on the

7 courthouse lawn?

8 (Simultaneous speakers.)

9 MR. O'DONNELL: Object to the

10 form.

11 (Court reporter

12 clarification.)

13 THE WITNESS: I think, David,

14 I cut you off.

15 A. I believe we -- we had additional

16 security that day just for the city. But it

17 would have been for this event, but

18 specifically for any counterdemonstrators.

19 Q. Okay. And notwithstanding the

20 nature of Mr. Warren's message, you were able

21 to maintain safety and order that day, correct?

22 A. Yes, sir.

23 Q. There were multiple events, am I

24 correct, held within the city of Oxford on

25 Juneteenth this year?

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1 JEFF MCCUTCHEN

2 A. I just remember seeing it in an

3 email.

4 Q. That --

5 A. Yeah. It would have been an email

6 we received this summer.

7 Q. Okay. And do you know who

8 Mr. Warren is?

9 A. I believe, maybe just through

10 some -- some Facebook searches, I gathered what

11 was on his profile.

12 Q. Okay. Other than that, you've not,

13 to your knowledge, encountered him?

14 A. I don't believe so.

15 Q. Okay. And I think this is -- to

16 your knowledge, the City of Oxford did not

17 grant the permit to Mr. Warren, did it?

18 A. I don't believe we had one

19 submitted to us.

20 Q. Okay. And, in fact, from the

21 email, you can see it's relating to a permit

22 that pertains to the -- to an event on the

23 courthouse lawn.

24 Do you see that?

25 A. Yes, sir.

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2 A. We had -- we had a couple. I

3 believe we had a march and a scavenger hunt.

4 And that was over, you know, the weekend, maybe

5 a Friday and a Saturday.

6 Q. Okay. And you were able to have

7 these events simultaneously -- or I understand

8 some of them may have straddled days -- again,

9 maintaining safety and order in the community,

10 correct?

11 A. Yes.

12 (Court reporter

13 clarification.)

14 BY MR. YOUNGWOOD:

15 Q. And by Juneteenth, we're referring

16 to June 19th; is that right, sir?

17 A. Yes, sir.

18 Q. In fact, if you look at tab 16,

19 which we'll mark as Exhibit 16.

20 This is a permit which does seem to

21 be signed and approved relating to some -- an

22 event that's going to be called Oxford

23 Juneteenth; is that right?

24 A. Yes, sir.

25 Q. And it has three dates for it,

<p style="text-align: right;">Page 114</p> <p>1 JEFF MCCUTCHEN</p> <p>2 June 19, 20, 21, but one of them includes June</p> <p>3 19th itself, correct?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And then if you turn to tab 17,</p> <p>6 which we'll mark as Exhibit 17.</p> <p>7 (Exhibit 17 was marked for</p> <p>8 identification.)</p> <p>9 BY MR. YOUNGWOOD:</p> <p>10 Q. This says -- this is for June 19th,</p> <p>11 Students Stronger -- sorry. I misspoke.</p> <p>12 Stronger Together Student Organization March,</p> <p>13 June 19th, start time, 5:00 p.m., end</p> <p>14 7:00 p.m., correct?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Do you know if that took place?</p> <p>17 The document itself is -- doesn't seem to be</p> <p>18 marked as approved.</p> <p>19 A. I do not believe that event took</p> <p>20 place. I believe the organizers of Juneteenth</p> <p>21 correlated with this group to do -- to do the</p> <p>22 march together.</p> <p>23 Q. Okay. I want to see if I can help</p> <p>24 you place better the meeting that you described</p> <p>25 where you met with Sheriff East and the head of</p>	<p style="text-align: right;">Page 115</p> <p>1 JEFF MCCUTCHEN</p> <p>2 the university's security force. If you turn</p> <p>3 to tab 21, which we'll mark as Exhibit 21.</p> <p>4 (Exhibit 21 was marked for</p> <p>5 identification.)</p> <p>6 BY MR. YOUNGWOOD:</p> <p>7 Q. You're not on this, sir. I'm not</p> <p>8 going to ask you if you've seen it before or</p> <p>9 anything. If you look at the top, though,</p> <p>10 Sheriff East writes that he has a meeting at</p> <p>11 9:30 with the two chiefs about security for the</p> <p>12 weekend.</p> <p>13 Could -- would -- is that possibly</p> <p>14 when you had your discussions that related to</p> <p>15 the -- you know, what you could put a banner on</p> <p>16 and timing of applications?</p> <p>17 A. It's possible, yes, sir.</p> <p>18 Q. Okay. But you're not -- this</p> <p>19 doesn't tell you that it was or wasn't?</p> <p>20 A. I'm not sure, because this could</p> <p>21 have been a meeting leading up to the July 4th</p> <p>22 event. So it could have been just a security</p> <p>23 meeting.</p> <p>24 Q. Okay. It's not uncommon, I guess,</p> <p>25 for you to meet with Sheriff East or your</p>
<p style="text-align: right;">Page 116</p> <p>1 JEFF MCCUTCHEN</p> <p>2 counterpart at the university?</p> <p>3 A. No, sir.</p> <p>4 Q. Let's take a look at tab 53, which</p> <p>5 we'll mark as Exhibit 53.</p> <p>6 (Exhibit 53 was marked for</p> <p>7 identification.)</p> <p>8 BY MR. YOUNGWOOD:</p> <p>9 Q. And take a look at this. This was</p> <p>10 produced to us. And tell me what this is,</p> <p>11 please.</p> <p>12 A. This would have been an operational</p> <p>13 plan with our department for an event that we</p> <p>14 had this summer.</p> <p>15 Q. Okay. So this just relates to one</p> <p>16 event? This is not, like, a general statement</p> <p>17 of policy?</p> <p>18 A. No, sir. This was specifically for</p> <p>19 one event.</p> <p>20 Q. Okay. And would you create such a</p> <p>21 plan for all events or only large events? Or</p> <p>22 how did that work?</p> <p>23 A. Typically, for large events or</p> <p>24 events that might use additional jurisdictions</p> <p>25 or resources.</p>	<p style="text-align: right;">Page 117</p> <p>1 JEFF MCCUTCHEN</p> <p>2 Q. Okay. And would you create these</p> <p>3 plans in conjunction with the sheriff's</p> <p>4 department or with the university security</p> <p>5 force?</p> <p>6 A. We would if we were relying on</p> <p>7 their resources or putting them in what we call</p> <p>8 a stack or in a group with our officers.</p> <p>9 Q. If you could turn to 55, please,</p> <p>10 which we'll mark as Exhibit 55.</p> <p>11 (Exhibit 55 was marked for</p> <p>12 identification.)</p> <p>13 BY MR. YOUNGWOOD:</p> <p>14 Q. This a similar type of plan? This</p> <p>15 one's for the 4th of July last year.</p> <p>16 A. Yes, sir.</p> <p>17 Q. Okay. I want to direct your</p> <p>18 attention to the second paragraph of the first</p> <p>19 page, where it says, Lafayette County Sheriff's</p> <p>20 Office is primarily responsible for operations</p> <p>21 during the event. However, if needed, the</p> <p>22 Oxford Police Department will assist when</p> <p>23 requested.</p> <p>24 Do you see that?</p> <p>25 A. Yes, sir.</p>

<p style="text-align: right;">Page 118</p> <p>1 JEFF MCCUTCHEN</p> <p>2 Q. And this is an example of your</p> <p>3 office and the Lafayette County Sheriff's</p> <p>4 Office coordinating on safety and security for</p> <p>5 the courthouse grounds, correct?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And the protest here was a</p> <p>8 Confederate protesters -- set of protesters,</p> <p>9 right?</p> <p>10 A. I don't know what they deemed it as</p> <p>11 far as what they permitted for.</p> <p>12 Q. It says on the top, on July 4th,</p> <p>13 2020, at 1230 hours, Confederate 901 protesters</p> <p>14 will be conducting a stagnant protest on the</p> <p>15 courthouse grounds.</p> <p>16 Do you see that?</p> <p>17 A. Yes, sir, I do.</p> <p>18 Q. And what does that mean,</p> <p>19 Confederate 901?</p> <p>20 A. That was a group. That was a title</p> <p>21 they used on Facebook. And so one of the</p> <p>22 organizers we were familiar with, that's where</p> <p>23 we would have coined that terminology.</p> <p>24 Q. Okay. And I think you've also</p> <p>25 testified that your concern that day was as</p>	<p style="text-align: right;">Page 119</p> <p>1 JEFF MCCUTCHEN</p> <p>2 much with the Confederate protesters as with</p> <p>3 any counterprotesters that might appear, right?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Okay. And through the coordination</p> <p>6 between your office and the Lafayette County</p> <p>7 Sheriff's Office, you were able to maintain</p> <p>8 safety and order during this event, correct?</p> <p>9 A. Yes, sir.</p> <p>10 Q. I want to refer you to tab 22,</p> <p>11 which we'll mark as Exhibit 22.</p> <p>12 (Exhibit 22 was marked for</p> <p>13 identification.)</p> <p>14 BY MR. YOUNGWOOD:</p> <p>15 Q. You're not on this. I'm not</p> <p>16 suggesting that you have seen this document</p> <p>17 before. But it concerns an application for</p> <p>18 July 5th. You can see the application. It's</p> <p>19 something on the courthouse grounds, something</p> <p>20 called Love Your Neighbor and Prayer.</p> <p>21 The reason I'm showing it to you</p> <p>22 is, on the top, Sheriff East says, I have</p> <p>23 spoken with Chief McCutchen, and the City does</p> <p>24 not have any permits issued that will take</p> <p>25 extra resources from us.</p>
<p style="text-align: right;">Page 120</p> <p>1 JEFF MCCUTCHEN</p> <p>2 Was it sometimes -- we've talked</p> <p>3 about assistance you provided the County.</p> <p>4 Would the County provide you with assistance as</p> <p>5 well?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And so while you're two separate</p> <p>8 police forces, is it fair to say that you tried</p> <p>9 to, where you could, share resources to</p> <p>10 maintain safety and order within the city of</p> <p>11 Oxford?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Would you sometimes assist them</p> <p>14 outside of the city and in the county,</p> <p>15 generally?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Okay. What would give rise to</p> <p>18 that?</p> <p>19 A. It could be a traffic crash, it</p> <p>20 could be a crime scene or a search. Just</p> <p>21 depending on the need.</p> <p>22 Q. Okay. And how about with a planned</p> <p>23 permitted event? Would you be available to</p> <p>24 assist them if there were permitted events</p> <p>25 outside of the city but in the county,</p>	<p style="text-align: right;">Page 121</p> <p>1 JEFF MCCUTCHEN</p> <p>2 generally?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Well, let me -- does that happen?</p> <p>5 I mean, are most of the permitted events within</p> <p>6 the city boundaries, even if, perhaps, on</p> <p>7 county grounds within the city boundaries?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Or are they --</p> <p>10 A. Most of them -- most of them are.</p> <p>11 Q. Okay. And how about the</p> <p>12 relationship with the university? Does the</p> <p>13 university police force assist you from time to</p> <p>14 time?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Do they assist the County from time</p> <p>17 to time?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And then going the other way, do</p> <p>20 you assist the university from time to time?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Okay. And have you observed that</p> <p>23 the County assists the university from time to</p> <p>24 time?</p> <p>25 A. Yes, sir.</p>

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2 Q. Okay. Do you know what the size is

3 of the university police force?

4 A. I believe it's around 32, 33.

5 Q. And is that total employees, or is

6 that law enforcement officers only?

7 A. I believe that's officers only.

8 Q. Okay. And Sheriff East has

9 testified to this. I don't, unfortunately,

10 have it right in front of me. Do you know

11 approximately how many officers he has?

12 A. Maybe 40. I'm not certain.

13 Q. Okay. So not holding you to these

14 numbers, but you have roughly 80 officers; you

15 said the university has roughly 32, 33; and he

16 maybe has 40. So all together, more than 150

17 officers within the county boundaries?

18 A. Probably so, yes, sir.

19 Q. And then is there another police

20 force within the county boundaries?

21 A. Not -- not local jurisdictions.

22 Q. State, you mean?

23 A. Yes, sir.

24 Q. Okay. And tell me about that. How

25 does the -- and I don't want to get the words

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2 Q. And how about federal? Are there

3 federal law enforcement officers located within

4 the county?

5 A. Yes, sir. I know we have an FBI

6 office, a marshal's office, I believe an ATF

7 office. Most of the branches of the federal

8 government have some sort of representation

9 here.

10 Q. Okay. Let's just start with the

11 State. What's your level of interaction in

12 coordination with the State narcotics office?

13 A. Typically, only with narcotics

14 investigations or any large-scale violent crime

15 that may pertain back to narcotics. But not

16 really a day-to-day operation.

17 Q. So they probably would not be

18 available, for example, if you needed help with

19 a permitted event?

20 A. Right. We -- we've never called on

21 them.

22 Q. And federal, same thing? You

23 wouldn't be seeking the assistance of federal

24 officers with a permitted event within the

25 city?

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2 wrong. The state police force or -- is that

3 the right terminology? Or is it -- is it a

4 marshal's office or what is it?

5 A. We have a Mississippi Bureau of

6 Narcotics, so a drug enforcement arm of the

7 State has an office here in Oxford.

8 Q. Any -- any other state law

9 enforcement officers?

10 A. I don't believe any -- any more

11 State officers are located here.

12 Q. Okay. And by "here," you mean

13 Oxford, or by "here," you mean Lafayette

14 County?

15 A. Oxford and the county.

16 Q. How many, then, in that one state

17 office you just referred to, the narcotics

18 office?

19 A. I don't know.

20 Q. Okay. Like --

21 (Simultaneous speakers.)

22 A. Maybe a handful of five or six,

23 max.

24 Q. You said five or six, max?

25 A. Yes, sir, I believe.

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2 A. Typically, no.

3 Q. Okay. Any occasions where you

4 would?

5 A. As -- as the year and the summer

6 went along, we tried to partner with as many

7 people as we could for intel gathering. But

8 when it comes to safety and security, it was

9 handled all at the local level.

10 Q. What do you mean by "intel

11 gathering"?

12 A. If -- so if we received a permit,

13 we would try to loop in our federal partners.

14 That way, if they had any information, any

15 additional background or former investigative

16 knowledge of the participants or organizers,

17 that would help us understand what we were

18 dealing with.

19 Q. Okay. Hold on one -- one second,

20 please. Sorry.

21 Anthony Hervey. Do you know that

22 name?

23 A. Yes, sir.

24 Q. Okay. And do you recall that there

25 was a vigil for Mr. Hervey this summer on the

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1 JEFF MCCUTCHEN

2 courthouse grounds?

3 A. Yes, sir. I believe so.

4 Q. What do you recall about that?

5 A. We had so many. I want to say it

6 was around Memorial Day, maybe, that there was

7 a gathering, either on the courthouse or they

8 walked to the courthouse. And I could

9 completely have my days wrong on that.

10 Q. Okay. Do you remember any safety

11 incidents associated with that event?

12 A. Safety incidents, I would not say.

13 But I know, if I'm referencing that right day,

14 then we would have obviously had our downtown

15 units monitoring that area.

16 Q. Okay. And -- and you were able to

17 maintain safety and order during that -- that

18 vigil?

19 A. Yes, sir.

20 Q. Okay. If you could turn to tab 43,

21 which we'll mark as Exhibit 43.

22 (Exhibit 43 was marked for

23 identification.)

24 BY MR. YOUNGWOOD:

25 Q. Do you remember -- this is a

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1 JEFF MCCUTCHEN

2 picture?

3 A. No, sir.

4 Q. Okay. Or car collisions or

5 anything like that in the area surrounding the

6 statue?

7 A. Not that I'm aware of.

8 Q. Okay. Or any other harm to public

9 safety take place associated with this event?

10 A. I do believe we asked the

11 individual not to shine it across that direct

12 roadway into drivers' eyes.

13 Q. Okay. And did they then cease

14 their behavior, or did they keep it up?

15 A. They moved on.

16 Q. Okay. Do you know how long it was

17 up for?

18 A. No, sir.

19 Q. Okay. But during the time it was

20 up and perhaps projecting across the road, as

21 you say, you're not aware of any car accidents

22 or any other events that harmed public safety

23 because of it?

24 A. No, sir.

25 Q. Okay. If you could turn to tab 44,

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2 picture, sir, of the statue with a projection

3 on it saying, Take it down.

4 Do you remember when this occurred,

5 this summer?

6 A. I've actually never seen that

7 photo, but I do believe I understand what

8 you're referencing to.

9 Q. Okay. Did you witness the event

10 yourself?

11 A. No, sir.

12 Q. Okay. You were informed of the

13 event?

14 A. If that -- if this is the one where

15 someone was parked and then shined the

16 projection across the road, then yes, sir.

17 Q. How did you learn of it?

18 A. I was contacted by one of our staff

19 members.

20 Q. Okay. Was any police action taken

21 with respect to it?

22 A. As far as enforcement, no, sir. We

23 did not make any arrests or citations issued.

24 Q. Okay. Any -- any violence erupt

25 from this event that's depicted in this

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2 which we'll mark as Exhibit 44.

3 (Exhibit 44 was marked for

4 identification.)

5 BY MR. YOUNGWOOD:

6 Q. And you can also look at tab 45,

7 which we'll mark as Exhibit 45.

8 (Exhibit 45 was marked for

9 identification.)

10 BY MR. YOUNGWOOD:

11 Q. These are projections from a prior

12 summer, I'll represent to you, sir, on the

13 courthouse walls. Were you aware of films

14 being shown on the courthouse walls in prior

15 years?

16 A. No, sir.

17 Q. Okay. Then I won't ask any more

18 questions about those.

19 Sir, I'll represent to you that --

20 actually, I'll just show it to you. Tab 25,

21 which we'll mark as Exhibit 25.

22 (Exhibit 25 was marked for

23 identification.)

24 BY MR. YOUNGWOOD:

25 Q. This is a permit application made

<p style="text-align: right;">Page 130</p> <p>1 JEFF MCCUTCHEN</p> <p>2 to the County, not to the City, by Mr. Rash,</p> <p>3 who's the plaintiff in the case, for an event</p> <p>4 on August 8th, which, you'll see from the</p> <p>5 document, was denied.</p> <p>6 Were you in any way consulted</p> <p>7 regarding this application?</p> <p>8 A. I don't believe so.</p> <p>9 Q. Okay. Did anyone -- I think your</p> <p>10 answer will be no. No one asked you if you</p> <p>11 could provide assistance to safeguard this --</p> <p>12 the safety of the community if this event were</p> <p>13 to take place, correct?</p> <p>14 A. Not to my knowledge, no, sir.</p> <p>15 Q. Do you know any reason why, if you</p> <p>16 had been asked to provide assistance the night</p> <p>17 of the 8th of August, that your -- your office</p> <p>18 couldn't have provided such assistance?</p> <p>19 A. Only if we had other events</p> <p>20 scheduled and stacked.</p> <p>21 Q. Okay. And do you recall August 8th</p> <p>22 of this year -- of last year -- sorry --</p> <p>23 being -- your resources being taxed in a way</p> <p>24 that you couldn't provide assistance?</p> <p>25 A. I couldn't answer without going</p>	<p style="text-align: right;">Page 131</p> <p>1 JEFF MCCUTCHEN</p> <p>2 back and looking at our calendar.</p> <p>3 Q. Okay. What would I want to look at</p> <p>4 to figure that out? You say "our calendar."</p> <p>5 Can you be more specific?</p> <p>6 A. You know, to be able to go back and</p> <p>7 look at any notes that we made, any permits</p> <p>8 that would have been filed, anything like that.</p> <p>9 Q. Okay. Let's go to tab 30, which</p> <p>10 we'll mark as Exhibit 30.</p> <p>11 (Exhibit 30 was marked for</p> <p>12 identification.)</p> <p>13 BY MR. YOUNGWOOD:</p> <p>14 Q. So this is an email that</p> <p>15 Sheriff East sends to you, Chief McCutchen, on</p> <p>16 September 1st of 2020. Do you remember</p> <p>17 receiving this -- this email from the sheriff?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Okay. And then he's attached to it</p> <p>20 a letter he wrote to the mayor of the City of</p> <p>21 Oxford. Do you see that behind the blue piece</p> <p>22 of paper?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Okay. Do you recall this letter?</p> <p>25 A. Yes, sir.</p>
<p style="text-align: right;">Page 132</p> <p>1 JEFF MCCUTCHEN</p> <p>2 Q. And do you recall the event that</p> <p>3 led to it?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And what -- what do you -- let's</p> <p>6 start with the event. What do you recall about</p> <p>7 the event that led to it?</p> <p>8 A. This was a march that originated on</p> <p>9 campus, then came to the city limits, and then</p> <p>10 to the county courthouse. And then they</p> <p>11 eventually moved over to the city hall plaza</p> <p>12 before exiting the square and heading back to</p> <p>13 campus.</p> <p>14 Q. Okay. And what, if any,</p> <p>15 involvement did you have in that event?</p> <p>16 A. We had to secure intersections and</p> <p>17 staff the area around the courthouse and</p> <p>18 eventually help navigate the student athletes</p> <p>19 back to campus.</p> <p>20 Q. If you look at the second paragraph</p> <p>21 of Sheriff East's letter to the mayor, he says,</p> <p>22 It is very concerning the City of Oxford's</p> <p>23 mayor would not notify anyone with the Oxford</p> <p>24 Police Department, much less anyone at the</p> <p>25 Lafayette County Sheriff's Department, that</p>	<p style="text-align: right;">Page 133</p> <p>1 JEFF MCCUTCHEN</p> <p>2 approximately 120 emotionally charged grown men</p> <p>3 would be marching and protesting upon City of</p> <p>4 Oxford streets and on the Lafayette County</p> <p>5 Courthouse grounds.</p> <p>6 Do you see that?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Had your office learned of the</p> <p>9 march in advance?</p> <p>10 A. Not -- not really in advance. I</p> <p>11 got a phone call from the chief of police on</p> <p>12 campus telling me that they were about to start</p> <p>13 marching. So within a matter of seconds or</p> <p>14 minutes before the actual event took place.</p> <p>15 Q. Okay. Did you discuss this event</p> <p>16 with Sheriff East, or did you just receive this</p> <p>17 letter afterwards?</p> <p>18 A. We discussed it. I mean, we were</p> <p>19 on the site together that day.</p> <p>20 Q. Okay. And -- and do you know what</p> <p>21 gave rise to him then writing this letter?</p> <p>22 A. I can only assume from frustration</p> <p>23 of the event spontaneously happening and no one</p> <p>24 giving any law enforcement a heads-up.</p> <p>25 Q. Okay. He writes to you on the</p>

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2 first page of Exhibit 30, Thought you might
3 need a copy for your files.
4 Do you know what he meant by that?
5 A. Yes, sir. We generated a police
6 report, and so we attached that, I'm assuming,
7 or I kept it in an email.
8 Q. Okay. If you go to now past his
9 first letter, there's a letter dated
10 September 8th from the mayor back to him, where
11 she writes, I'm in receipt of your letter
12 regarding the football team's march without a
13 permit on Friday, August 8, 2020. Your
14 information is simply not correct.
15 Do you know -- and I know you're
16 not her. But do you know what she meant by the
17 information not being correct?
18 A. There was a lot of speculation as
19 to her knowledge of that event or her duration
20 prior to the event kicking off. And so I
21 believe her statement there is that the facts
22 were not all the way out when the original
23 letter was written.
24 Q. And so the thing she may be
25 saying -- again, I know you're not her -- is,

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2 know what time you normally eat
3 lunch, but before your afternoon.
4 So we'll take 15 minutes, come back
5 at 12:45 -- sorry -- 11:45.
6 THE VIDEOGRAPHER:
7 Okay. We're going off the record.
8 The time is 11:31 a.m.
9 (Recess from 11:31 a.m. to
10 11:47 a.m.)
11 THE VIDEOGRAPHER: We are
12 back on the record. The time is
13 11:47 a.m.
14 MR. YOUNGWOOD: Okay. Keith,
15 I really don't have too much
16 longer. So we certainly won't need
17 another break.
18 BY MR. YOUNGWOOD:
19 Q. If you could turn to tab 52, which
20 we'll mark as Exhibit 52.
21 (Exhibit 52 was marked for
22 identification.)
23 BY MR. YOUNGWOOD:
24 Q. This is an email from Alex Moffett
25 to you and to others. Who is Mr. Moffett?

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2 You're assuming I knew about stuff in advance
3 that I didn't know about?
4 A. I would assume so.
5 Q. Okay. Did you ever have a
6 conversation with her about the event?
7 A. Afterwards, yes, sir.
8 Q. What was that conversation?
9 A. Trying to get a timeline of what
10 she knew, where she was, you know, how did we
11 get to this moment without any conversations.
12 MR. YOUNGWOOD: Okay. Why
13 don't we take a break? We've been
14 going about an hour. Why don't --
15 why don't we make it -- if you
16 don't mind, why don't we make it 15
17 minutes? Maybe Landon and Lily,
18 the three of us, could talk, and
19 we're -- we're actually close to
20 the end. And I just want to make
21 sure Landon or Lily have -- have
22 some stuff they want me to cover
23 that I make sure I cover.
24 So I think we'll get you
25 freed up before -- well, I don't

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2 A. He would have been our sergeant who
3 managed the downtown district.
4 Q. Okay. And the top of the email,
5 which is dated June 21, he writes, We had a
6 small crowd on the square tonight. It was much
7 smaller than the two previous evenings.
8 So he's writing this the morning,
9 it looks like, of the 21st, and when he says
10 "tonight," he must be referring to the 20th.
11 Is that how you read it when you got the email?
12 A. Yes, sir.
13 Q. Okay. And then he says, Much
14 smaller than the previous two evenings.
15 The previous immediate evening
16 would have been June 19th, which would have
17 been Juneteenth, correct?
18 A. Yes, sir.
19 Q. Okay. He says, There were no
20 issues from the Juneteenth march from the
21 activity center to city hall, and there was a
22 good turnout.
23 Do you see that as a reference to
24 what happened on the 20th or on the 19th?
25 A. That probably would have been -- I

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2 believe the scavenger hunt was on the 19th, and

3 the march was on the 20th.

4 Q. Okay. And can you help me -- and

5 really, for the record, sir, when it says

6 "activity center to city hall," what was that

7 describing?

8 A. The activity center was the

9 location on Molly Barr Road and Price Street.

10 The activity center is located there. That was

11 the start location for the march, and the march

12 came to city hall and then back to the activity

13 center.

14 Q. And how does that relate, for the

15 record, to the square -- town square?

16 A. It would have went directly through

17 the town square.

18 Q. And how would it relate to the

19 courthouse, then, the county courthouse?

20 A. The county -- it would have went

21 around the county courthouse.

22 Q. Okay. So it -- like around the

23 sidewalk immediately outside the county

24 courthouse or -- or --

25 A. No. Just --

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1 JEFF MCCUTCHEN

2 correct?

3 A. I believe it was in the evening. I

4 don't know that it was after dark.

5 Q. Okay. But evening in -- in late

6 June would -- could be 8:00, 9:00 p.m. without

7 it being after dark, right?

8 A. Yes, sir.

9 Q. Okay. And there was no violence or

10 other threats to public safety associated with

11 it, right?

12 A. That's correct.

13 Q. Okay. Have you ever had

14 conversations with -- with Sheriff East about

15 even greater coordination between your force

16 and his force with respect to keeping the peace

17 within the county and the city?

18 A. Such as?

19 Q. I don't know. Any -- I mean -- let

20 me ask it differently.

21 What is your level of coordination?

22 Is it -- is it a good level of coordination?

23 Something that's challenged and needs more

24 work? Or how would you classify it?

25 A. I think it's good. He, obviously,

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1 JEFF MCCUTCHEN

2 (Simultaneous speakers.)

3 A. Because the county courthouse is in

4 the center of the square, it would have just

5 naturally been in the proximity of it.

6 Q. Okay. So it would have -- it would

7 have circled the county courthouse, but perhaps

8 with a road between the marchers and the

9 courthouse; is that right?

10 A. Yes, sir.

11 Q. Okay. And he says, Everyone stayed

12 on the sidewalks and out of the street, and

13 there was not anyone attempting to interfere

14 with the march.

15 Right?

16 A. Yes, sir.

17 Q. Did this event have coordination at

18 all, to your knowledge, with the county

19 sheriff's office?

20 A. Probably only just to know about

21 that it was happening.

22 Q. Okay. And this is certainly an

23 example of an event that could take -- that

24 took place at night in the town square without

25 any violence or disturbance to the peace,

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1 JEFF MCCUTCHEN

2 has been the sheriff this first year, so it's

3 taken some -- some time to iron out some of

4 those details. But I think it's good and it's

5 getting better.

6 Q. And you -- I mean, you used to work

7 for him when he was -- had your position,

8 right?

9 A. Yes, sir.

10 Q. Okay. So you've known each other a

11 long time?

12 A. Yes, sir.

13 Q. And you have a good working

14 relationship, I take it?

15 A. Yes, sir.

16 Q. No problems with communicating? If

17 you need something, you can talk to him about

18 it; if he needs something, he can talk to you

19 about it?

20 A. Yes, sir.

21 Q. Okay. I'm going to just show

22 you --

23 MR. YOUNGWOOD: And let me

24 actually ask the videographer: Is

25 there a way to capture both the

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1 JEFF MCCUTCHEN
2 witness and some picture we're
3 going to put up of the town square?
4 THE VIDEOGRAPHER: Yeah. If
5 we do a screen share --
6 MR. YOUNGWOOD: Yes. So --
7 THE VIDEOGRAPHER: -- I can
8 do a picture-in-picture on that.
9 MR. YOUNGWOOD: Yeah. Lily
10 will do that.
11 So on -- this is not -- we
12 will give everyone the link to it.
13 It's a short video of the town
14 square, and I'm really going to
15 just use it for the record to see
16 if the chief can help us orient it
17 to the extent the Court will want
18 to know that. Why don't we mark it
19 as -- just to make sure I don't use
20 a number that's been used, I'll say
21 it's Exhibit 58, which would be the
22 next numbered exhibit, if the
23 binder went that far.
24 (Exhibit 58 was marked for
25 identification.)

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1 JEFF MCCUTCHEN
2 Q. Okay. And the streamers, the
3 lights that we see coming from the top of the
4 courthouse to the buildings, those are put up
5 all year or just part of the year?
6 A. Just during the holidays.
7 Q. Okay. How about, though, the
8 streetlights? Would those be on after dark,
9 typically?
10 A. Yes, sir.
11 MR. YOUNGWOOD: Okay. And
12 let's start the video, and I'll --
13 I'll tell you when to stop it.
14 (Video played.)
15 MR. YOUNGWOOD: So let's
16 pause it. Can we -- Lily, can we
17 pause it? Okay.
18 BY MR. YOUNGWOOD:
19 Q. So which direction have we turned?
20 A. You are now about to go south.
21 Q. Okay. And this is at 23 seconds of
22 the video. And, again, I recognize the
23 Christmas lights are up and they're not at all
24 times of the year. But, otherwise, this is a
25 fair rendition of what it would look like to

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1 JEFF MCCUTCHEN
2 BY MR. YOUNGWOOD:
3 Q. And what I'd like to do, Chief,
4 if -- can you see the screen? Can you see what
5 I'm looking at? It's a picture of the
6 courthouse.
7 A. Yes, sir.
8 Q. Okay. And what I'm going to do is
9 have it go forward, and I'm going to ask Lily
10 to stop it just for orientation and ask you to
11 just help us, for the record, identify what
12 we're looking at. So when I do that, for the
13 record, I'll mark the time piece on the -- on
14 the video.
15 Before we start, can you tell us
16 what this is a picture of?
17 A. This would be North Lamar, and
18 you're facing the north side of the county
19 courthouse.
20 Q. Okay. And you can see that this is
21 taken during the holiday season. There are
22 wreaths up. Is this a fair rendition of what
23 the courthouse might look like from that
24 position during the holiday season?
25 A. Yes, sir.

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1 JEFF MCCUTCHEN
2 start going south from this direction?
3 A. Yes, sir.
4 Q. Okay. Looking at the retail that's
5 along the road we're facing, what road is that?
6 A. You're now entering the courthouse
7 circle.
8 Q. Okay. And the lights that are
9 coming from those doors at night, are those
10 typically on in the evening?
11 A. Yes, sir.
12 MR. YOUNGWOOD: Okay. Let's
13 go forward, Lily.
14 (Video played.)
15 MR. YOUNGWOOD: Okay. And
16 let's pause again, please.
17 BY MR. YOUNGWOOD:
18 Q. Okay. If I could now -- so we've
19 gone -- we're looking east; am I correct,
20 still?
21 A. You're looking south.
22 Q. I'm looking south. Okay. So the
23 courthouse is to the east of us, and there are
24 stores to the south of us and the west of us,
25 correct?

<p style="text-align: right;">Page 146</p> <p>1 JEFF MCCUTCHE</p> <p>2 A. Yes, sir.</p> <p>3 Q. Okay. The lights -- and you</p> <p>4 remember I showed you a picture of these during</p> <p>5 the day. It's part of the reason I wanted to</p> <p>6 look at the video. The lights that are toward</p> <p>7 the left of the screen, the bulb lights, those</p> <p>8 are typically on at night; is that right?</p> <p>9 A. They -- they are here. Again, I've</p> <p>10 just never paid attention. I'm sorry.</p> <p>11 MR. YOUNGWOOD: Okay. And</p> <p>12 just for the record, I've stopped</p> <p>13 the tape at 32 seconds. Let's move</p> <p>14 forward.</p> <p>15 (Video played.)</p> <p>16 MR. YOUNGWOOD: Okay. Let's</p> <p>17 pause it again as it -- as it</p> <p>18 circles around.</p> <p>19 BY MR. YOUNGWOOD:</p> <p>20 Q. We can't see the courthouse now,</p> <p>21 but we're on the southernmost portion of the</p> <p>22 square; is that right? Or headed toward the</p> <p>23 southernmost portion?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Okay. And the street that goes</p>	<p style="text-align: right;">Page 147</p> <p>1 JEFF MCCUTCHE</p> <p>2 south away from the courthouse, what -- what</p> <p>3 street is that?</p> <p>4 A. That is South Lamar.</p> <p>5 Q. Okay. So it's North Lamar north of</p> <p>6 the courthouse and South Lamar south of the</p> <p>7 courthouse?</p> <p>8 A. Yes, sir.</p> <p>9 Q. The courthouse divides the north</p> <p>10 and south?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Okay. Again, we're looking at</p> <p>13 retail on the southernmost portion. And this</p> <p>14 is -- I'm sorry -- for the record, at 42</p> <p>15 seconds.</p> <p>16 Again, this -- this retail and the</p> <p>17 lights there, on a typical evening, those</p> <p>18 lights would be on; is that -- is that right?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And --</p> <p>21 MR. O'DONNELL: Let -- let</p> <p>22 me -- excuse me, John. I want to</p> <p>23 make an objection. I think the</p> <p>24 video has an aspect to it that</p> <p>25 enhances the lighting features in</p>
<p style="text-align: right;">Page 148</p> <p>1 JEFF MCCUTCHE</p> <p>2 the video. So I think, therefore,</p> <p>3 it's unduly suggestive of what the</p> <p>4 actual conditions are. So. . .</p> <p>5 MR. YOUNGWOOD: Fair enough.</p> <p>6 I think I'm -- I understand the</p> <p>7 objection.</p> <p>8 MR. O'DONNELL: Okay.</p> <p>9 BY MR. YOUNGWOOD:</p> <p>10 Q. But the lights themselves would</p> <p>11 typically be on? Whether a different camera</p> <p>12 aperture would change the -- the visual or not,</p> <p>13 the lights would be on; is that fair to say?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Okay. There are some lights toward</p> <p>16 the top of the buildings that we're looking at.</p> <p>17 And if I can read it correctly here at 42</p> <p>18 seconds, we're looking at a retail</p> <p>19 establishment called the Village Tailor or</p> <p>20 Trailer. I'm not sure. I'm sure you know what</p> <p>21 it must say.</p> <p>22 A. Yes, sir.</p> <p>23 Q. What does it say?</p> <p>24 A. Village Tailor.</p> <p>25 Q. Tailor. What is the Village</p>	<p style="text-align: right;">Page 149</p> <p>1 JEFF MCCUTCHE</p> <p>2 Tailor?</p> <p>3 A. It is a -- like, a boutique, ladies</p> <p>4 shop.</p> <p>5 Q. It's not a tailor; it's a clothing</p> <p>6 store? Okay.</p> <p>7 A. Yes, sir.</p> <p>8 Q. There's some lights on the top of</p> <p>9 this building, kind of -- and, again, I</p> <p>10 recognize the objection that pictures can be</p> <p>11 taken different ways. But those lights on the</p> <p>12 top, are those -- I don't mean the string of</p> <p>13 lights, which I take it must -- may be holiday</p> <p>14 lights. I mean the kind of spotlights. Are</p> <p>15 those lights that are typically on on the</p> <p>16 buildings in the evenings?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Okay. Let's -- and these -- and</p> <p>19 I'm sorry. There are also streetlights on the</p> <p>20 street themselves, both on South Lamar and on</p> <p>21 the cross-street. Those would also, I assume,</p> <p>22 be typically on in the evening?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And what is the street that</p> <p>25 we're -- we're headed down here? Is that just</p>

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1 JEFF MCCUTCHEN
2 called Courthouse Square, or is there some
3 other name for this street?
4 A. Yes, sir. But if you were to go
5 east, then you would be on Van Buren.
6 Q. Okay. So I think we'll get there
7 in a second.
8 MR. YOUNGWOOD: Let's --
9 let's proceed, Lily.
10 (Video played.)
11 MR. YOUNGWOOD: Okay. Let's
12 pause.
13 BY MR. O'DONNELL:
14 Q. So is that Van Buren is the street
15 now that we're facing, almost dead-screen,
16 at -- at 47 seconds?
17 A. Yes, sir.
18 Q. Okay. And we're now facing another
19 set of retail, which looks to be a clothing
20 store. And lights coming through the windows,
21 those would be on on a typical evening, I take
22 it?
23 A. Yes, sir.
24 MR. YOUNGWOOD: Okay. We can
25 keep going.

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1 JEFF MCCUTCHEN
2 (Video played.)
3 MR. YOUNGWOOD: Okay. And
4 let's pause one more time, please.
5 BY MR. YOUNGWOOD:
6 Q. We're now turning to the west; is
7 that correct?
8 A. Yes, sir.
9 Q. Okay. And coming around the
10 courthouse. And, again, there's a streetlight
11 toward right of center on the screen. We're at
12 one minute and five seconds. Is that a
13 streetlight that's typically on in the
14 evenings?
15 A. Yes, sir.
16 Q. And there's another streetlight on
17 the other side of, I guess, what must be
18 South -- I'm sorry -- yeah, South Lamar --
19 North Lamar. North Lamar. That streetlight is
20 also typically on, correct?
21 A. Yes, sir.
22 Q. We talked about cameras at one
23 point. Where in the square would the cameras
24 be located?
25 A. You've -- you've got a couple. So

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1 JEFF MCCUTCHEN
2 (Video played.)
3 MR. YOUNGWOOD: Okay. We're
4 turning the corner. We can pause
5 for a second.
6 BY MR. YOUNGWOOD:
7 Q. We're now looking north; is that
8 right?
9 A. Yes, sir.
10 Q. And coming around the courthouse
11 and now to the -- we're looking north to the
12 left side of the screen to the west, to the --
13 to the position of the camera would be the
14 courthouse, even though we can't see it; is
15 that right?
16 A. Yes, sir.
17 Q. Okay. And those lights, the bulb
18 lights, are now on the other side. Again,
19 these are stationed in different places around
20 the courthouse grounds. Those are on on a
21 typical evening, correct?
22 A. Yes, sir.
23 MR. YOUNGWOOD: Okay. And
24 this is at 59 seconds of the video.
25 Please keep going.

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1 JEFF MCCUTCHEN
2 in the orientation where we are, to the right
3 at city hall, you would -- you would have a
4 camera. At one time, directly in front of us
5 on the Thompson House was a camera. I don't
6 know that it is still there, just due to some
7 construction. There's cameras -- there are
8 cameras, if you follow to the left -- if you
9 went back west on Jackson Avenue, you have
10 multiple cameras there. And then on Van Buren.
11 Q. So let me -- at the risk of going
12 slightly backwards, I'd like to -- you said
13 Thompson House. Where -- where in the square
14 would that be? I'd like to roll back the video
15 a little and see if -- did we pass it by
16 already?
17 A. No. You -- you are looking right
18 at it. It is -- it is the big, white,
19 multi-layered building to the left of the
20 screen.
21 Q. Okay. And that camera, we're now
22 at a minute-seven on the tape and looking at a
23 big, white building. Where on the building
24 would that be?
25 A. I believe -- I believe they're -- I

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1 JEFF MCCUTCHEN

2 believe there is one -- so if you take this

3 whole structure and follow it all the way to

4 the far end on the left, there should be one

5 situated on the far end of that building, I

6 believe.

7 Q. And which way would it be pointing?

8 A. More than likely, it will catch

9 what is immediately below it or it will be

10 pointing to the right, down Jackson Avenue.

11 MR. MALLETT: West.

12 A. West.

13 Q. West. Away from the courthouse?

14 A. Yes, sir.

15 Q. Okay. Let me ask this way: Are

16 there -- are there cameras that would capture

17 the courthouse?

18 A. Yes, sir. I believe, if you -- if

19 you back up and you gather city hall again,

20 just to the right --

21 Q. Okay.

22 A. -- there are positions -- two

23 cameras positioned there.

24 MR. YOUNGWOOD: Okay. Lily,

25 why don't you see if you can find

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1 JEFF MCCUTCHEN

2 PTZ. So it moves and rotates. And it will

3 capture some of the county courthouse.

4 Q. So it would capture the county

5 courthouse looking to the west?

6 A. Yes, sir.

7 Q. It points west. The courthouse is

8 to the west, and it -- and it goes back and

9 forth, and at times, in its sweep, will capture

10 the western side of the courthouse?

11 A. Yes, sir.

12 Q. Okay. Any other cameras in the

13 square that you believe capture the courthouse?

14 A. I'm not certain if there are any on

15 Van Buren towards the east. I do know that

16 there was one at the South Lamar/Courthouse

17 Square Loop intersection. But I do believe

18 that construction has knocked that one out, and

19 I don't believe that is back up.

20 Q. Okay. And who has charge over

21 these cameras, jurisdiction over them?

22 A. The City of Oxford.

23 Q. Okay. So you -- you don't play a

24 role in whether or not more cameras are put up

25 or fewer cameras are put up?

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1 JEFF MCCUTCHEN

2 that?

3 MS. CRON: Do I go further

4 back?

5 THE WITNESS: Yeah. Keep

6 coming back. Keep coming. Okay.

7 A. So just to the --

8 Q. I think if you go forward, we'll

9 get there.

10 A. Okay. That's fine.

11 (Video played.)

12 BY MR. YOUNGWOOD:

13 Q. Yeah. Let's stop there. Okay. So

14 this is at 51 seconds, and we are looking east.

15 A. Okay. If you see the two Christmas

16 trees --

17 Q. Yep.

18 A. Right? So the second one, which

19 would be not -- not the one closest to the edge

20 of your screen. But if you would track your

21 eyes just to the right, you can see a light

22 pole with an overhanging bulb. About halfway

23 down is two cameras. And one, I believe, will

24 capture city hall, and the other one is what

25 would -- is described as a point-tilt-zoom, a

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1 JEFF MCCUTCHEN

2 A. No, sir. That typically goes

3 through the emergency management coordinator,

4 Jimmy Allgood.

5 Q. Okay. You don't know, for example,

6 how much it would cost to put up another

7 camera?

8 A. I don't, no, sir.

9 Q. Okay. What are they used for?

10 A. We use them, typically, to monitor

11 locations that -- that we can't staff. Those

12 cameras are also -- are not recorded but

13 displayed in our dispatch room. So if we have

14 disturbances or events that -- that kick off,

15 we can get a quick view of that.

16 Q. Okay. And if you received a

17 request for footage from the sheriff's office,

18 you would -- well, maybe it's not in your

19 jurisdiction to share it, but -- but is it your

20 understanding that the City would share it?

21 A. Yes, sir.

22 Q. Okay. Let's -- let's -- this was

23 at 51 seconds. I think you've essentially

24 identified a pole that's between the red

25 building that is city hall and a small red

<p style="text-align: right;">Page 158</p> <p>1 JEFF MCCUTCHEN</p> <p>2 building that borders a white building.</p> <p>3 A. Yes, sir.</p> <p>4 Q. What's the name of the small red</p> <p>5 building?</p> <p>6 A. The bottom floor is Square Books,</p> <p>7 Jr., and then the top floor, at one time, was a</p> <p>8 legal office.</p> <p>9 Q. Okay. And the white building, what</p> <p>10 is that known as?</p> <p>11 A. It's a department store, Neilson's.</p> <p>12 MR. YOUNGWOOD: Okay. Let's</p> <p>13 continue, please. And we're</p> <p>14 progressing now through one minute</p> <p>15 of the video. There's going to be</p> <p>16 a second loop.</p> <p>17 (Video played.)</p> <p>18 MR. YOUNGWOOD: So let's just</p> <p>19 pause again.</p> <p>20 BY MR. YOUNGWOOD:</p> <p>21 Q. This -- this is looking at the</p> <p>22 courthouse at one minute, 11 seconds, looking</p> <p>23 south; is that correct?</p> <p>24 A. Yes, sir.</p> <p>25 MR. YOUNGWOOD: Okay. Let's</p>	<p style="text-align: right;">Page 159</p> <p>1 JEFF MCCUTCHEN</p> <p>2 continue.</p> <p>3 (Video played.)</p> <p>4 MR. YOUNGWOOD: If you could</p> <p>5 try to pause, Lily, where we can</p> <p>6 see one of the light posts and the</p> <p>7 light shining on the courthouse.</p> <p>8 MS. CRON: Is that good or</p> <p>9 further?</p> <p>10 MR. YOUNGWOOD: No. Go back.</p> <p>11 I'd like to try to get one of the</p> <p>12 strobe lights that I think point at</p> <p>13 the courthouse.</p> <p>14 There you go. Stop. So</p> <p>15 we're at --</p> <p>16 MS. CRON: Further?</p> <p>17 (Technical discussion.)</p> <p>18 (Video played.)</p> <p>19 MR. YOUNGWOOD: There you go.</p> <p>20 Stop.</p> <p>21 BY MR. YOUNGWOOD:</p> <p>22 Q. So at 1:18, we're on the west side</p> <p>23 of the courthouse; is that right?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Coming from the north. And I -- I</p>
<p style="text-align: right;">Page 160</p> <p>1 JEFF MCCUTCHEN</p> <p>2 appreciate you can only testify as you see and</p> <p>3 remember. But can you see the strobe light</p> <p>4 underneath the bulb lights pointing at the</p> <p>5 courthouse?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And is it -- does that help you</p> <p>8 recall, sir, whether or not those lights are on</p> <p>9 at night to illuminate the courthouse?</p> <p>10 A. I mean, it appears they are there.</p> <p>11 It's just something I've never paid attention</p> <p>12 to.</p> <p>13 Q. Okay.</p> <p>14 MR. YOUNGWOOD: Okay. Let's</p> <p>15 continue.</p> <p>16 (Video played.)</p> <p>17 MR. YOUNGWOOD: If you could</p> <p>18 pause, Lily, when we get to the</p> <p>19 statue, which will be momentarily.</p> <p>20 BY MR. YOUNGWOOD:</p> <p>21 Q. Okay. So -- so we're now on the</p> <p>22 south side of the courthouse, correct?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And the courthouse is -- is to the</p> <p>25 north of the statue, right?</p>	<p style="text-align: right;">Page 161</p> <p>1 JEFF MCCUTCHEN</p> <p>2 A. Yes, sir.</p> <p>3 Q. And the statue itself is facing</p> <p>4 south, looking at South Lamar; is that right?</p> <p>5 A. Yes, sir.</p> <p>6 MR. YOUNGWOOD: And for the</p> <p>7 record, we're at one minute and 30</p> <p>8 seconds on the video.</p> <p>9 BY MR. YOUNGWOOD:</p> <p>10 Q. The space between the courthouse</p> <p>11 grounds and the statue, whose jurisdiction is</p> <p>12 that?</p> <p>13 A. The space between the courthouse</p> <p>14 and the statue?</p> <p>15 Q. Yeah.</p> <p>16 A. Is the County's.</p> <p>17 Q. Okay. There's no -- there's no</p> <p>18 City ground between the two, the -- if we were</p> <p>19 to draw a map, the kind of what you consider to</p> <p>20 be the County grounds kind of juts out like a</p> <p>21 peninsula from the -- from the courthouse and</p> <p>22 captures the statue? Is that how you view it?</p> <p>23 A. Since I have been an officer in</p> <p>24 Oxford, that has always been a jurisdiction of</p> <p>25 the County.</p>

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1 JEFF MCCUTCHEN

2 Q. Okay. So the City's jurisdiction,

3 though, is the street; is that right?

4 A. Yes, sir.

5 Q. And I won't make you watch the

6 video again. But all the retail and

7 surrounding roads, that's City jurisdiction,

8 right?

9 A. Yes, sir.

10 MR. YOUNGWOOD: Okay. Let's

11 keep going, Lily.

12 (Video played.)

13 MR. YOUNGWOOD: Okay. I

14 think that -- that's the video. We

15 can close it.

16 Thank you for enduring that

17 with me, Chief.

18 I think that's it, sir. I

19 have no further questions at this

20 time. I don't know if your counsel

21 or Mr. O'Donnell may have a

22 question for you.

23 MR. O'DONNELL: I do not,

24 John. No questions.

25 MR. MALLETT: And this is

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1 JEFF MCCUTCHEN

2 REPORTER'S CERTIFICATE

3 I, Greta H. Duckett, Certified Court

4 Reporter, Registered Professional Reporter, and

5 Certified Realtime Reporter, hereby certify

6 that on Thursday, January 7, 2021, I reported

7 the remote deposition of JEFF MCCUTCHEN, who

8 was first duly sworn or affirmed to speak the

9 truth in the matter of the foregoing cause, and

10 that the pages herein contain a true and

11 accurate transcription of the examination of

12 said witness by counsel for the parties set out

13 herein.

14 I further certify that I am neither of

15 kin nor of counsel to any of the parties to

16 said cause, nor in any manner interested in the

17 results thereof.

18 This 20th day of January, 2021.

19 *Greta Duckett*

20

21

22 GRETA H. DUCKETT, RPR, CRR, CVR-S, RVR-M-S

23 ACCR-12, GCCR-2891, MCCR-1945, TNLCR-671

24

25

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1 JEFF MCCUTCHEN

2 Pope Mallette. I have no

3 questions.

4 MR. YOUNGWOOD: Okay. Chief,

5 thank you for your time. Again, I

6 recognize how busy you are and how

7 important your work is, and I

8 regret that we had to take your

9 morning from you. So be well.

10 THE VIDEOGRAPHER:

11 Counselors, before we close the

12 deposition, Mr. Young, just

13 clarifying video orders, would you

14 like a copy of the video?

15 (Discussion with counsel,

16 videographer, and court

17 reporter.)

18 THE VIDEOGRAPHER: This ends

19 the deposition. We are going off

20 the record at 12:15 p.m.

21 (The deposition of JEFF

22 MCCUTCHEN concluded at

23 12:15 p.m.)

24 * * * * *

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3 Deposition Date:

4 Deponent:

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Signature of Deponent

SUBSCRIBED AND SWORN BEFORE ME

THIS ____ DAY OF _____, 2020.

(Notary Public) MY COMMISSION EXPIRES: _____

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